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FEDERAL REGISTER

TUESDAY, MARCH 6, 1979

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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Title 3—
The President

Presidential Determination No. 79-4 of January 31, 1979

Waiver of the Limitation on the Aggregate of Military Assistance Under the Foreign Assistance Act of 1961, and of Credits Extended and Loans Guaranteed Under the Arms Export Control Act for African Countries in Fiscal Year 1979

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 33(b) of the Arms Export Control Act I hereby determine that the waiver of the limitations of Section 33(a) of the Arms Export Control Act, as amended, for fiscal year 1979 is important to the security of the United States.

You are requested, on my behalf, to report this determination promptly to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, as required by law.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
Washington, January 31, 1979.

[FR Doc. 79-6913
Filed 3-2-79; 4:22 pm]

Billing Code 3195-01-M

Presidential Determination No. 79–5 of February 6, 1979

Eligibility of Botswana to Make Purchases of Defense Articles and Defense Services Under the Arms Export Control Act, as Amended

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 3(a)(1) of the Arms Export Control Act, as amended, I hereby find that the sale of defense articles and defense services to the Government of Botswana will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding, which amends Presidential Determination No. 73–10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 FR 12799), No. 74–9 of December 13, 1973 (39 FR 3537), No. 75–2 of October 29, 1974 (39 FR 39863), No. 75–21 of May 20, 1975 (40 FR 24889), No. 76–1 of August 5, 1975 (40 FR 37205), No. 76–11 of March 25, 1976 (41 FR 14163), No. 76–12 of April 14, 1976 (41 FR 18281), No. 77–5 of November 5, 1976 (41 FR 50625), No. 77–17 of August 1, 1977 (42 FR 40169), and No. 77–20 of September 1, 1977 (42 FR 48867), shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
Washington, February 6, 1979.

[FR Doc. 79–6914
Filed 3–2–79; 4:23 pm]

Billing Code 3195–01–M

rules and regulations

[6820-97-M]

Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES

PART 475—PRIVACY ACT IMPLEMENTATION

Adoption of Regulations

AGENCY: Presidential Commission on World Hunger.

ACTION: Adoption of regulations implementing the Privacy Act of 1974.

SUMMARY: On November 29, 1978, the Commission proposed the adoption of regulations implementing the Privacy Act of 1974, 5 U.S.C. 552a, and invited comments from interested persons (43 FR 55770). No comments were received.

The Commission is adopting the proposed regulations with only one minor change. The title "Deputy Executive Director" is changed to "Executive Director".

DATE: Part 475 is effective March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald B. Harper, 395-3505.

Signed this 1st day of March 1979.

DANIEL E. SHAUGHNESSY,
Executive Director.

Title 1 of the CFR is amended by adding the following new Part 475.

PART 475—PRIVACY ACT IMPLEMENTATION

Sec.

AUTHORITY: 5 U.S.C. 552a: Pub. L. 93-579.

§ 475.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Presidential Commission on World Hunger hereafter known as the Commission maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 475.2. Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 475.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Director of Administrative and Fiscal Services to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 475.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Director of Administrative and Fiscal Services of the Commission pursuant to § 475.3 shall present the request at the Commission offices, 734 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 475.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 475.6 Request for correction or amendment to the record.

The individual should submit a request to the Director of Administrative and Fiscal Services which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 475.4.

§ 475.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Director of Administrative and Fiscal Services will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 475.8 Appeal of an initial adverse agency determination on correction of amendment of the record.

An individual who disagrees with the refusal of the Director of Administrative and Fiscal Services to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. The Executive Director will, not later than thirty working days from the date on which the individual request such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 475.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 475.10 Fees.

If an individual request copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 79-6622 Filed 3-5-79; 8:45 am]

[3410-01-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 25—ADVISORY COMMITTEE MANAGEMENT

PART 25a—OTHER COMMITTEE MANAGEMENT

Amendment to Reflect Changes in Responsibilities

AGENCY: U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the title of the official designated as the Committee Management Officer for the Department in accordance with a previous published delegation of authority from the Secretary and amends the title of the office which provides staff support for committee management functions.

EFFECTIVE DATE: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

Carolyn Wright, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9895.

SUPPLEMENTARY INFORMATION: The Secretary of Agriculture in 43 FR 13053, March 29, 1978, designated the Assistant Secretary for Administration as the Department's Committee Management Officer. Prior to the designation, the Director, Economics, Policy Analysis and Budget was designated as Committee Management Officer. In addition, staff support for committee management functions was performed by the Office of Budget, Planning and Evaluation which is under the supervision of the Director, Economics, Policy Analysis and Budget. Since the Management Staff is under the supervision of the Assistant Secretary for Administration it was determined that the Management Staff rather than the Office of Budget, Planning and Evaluation should provide staff support for committee management functions. Accordingly, Parts 25 and 25a are amended to show that the Assistant Secretary for Administration is the Committee Management Officer for the Department and that the Management Staff provides staff support for committee management functions, as follows:

PART 25 AND 25a—[AMENDED]

1. In paragraphs 25.7(a) and 25a.38(a), the title "Director, Economics, Policy Analysis and Budget" is amended to read "Assistant Secretary for Administration".

2. Wherever the term "Office of Budget, Planning and Evaluation" appears it is amended to read "Management Staff".

While it is the general policy of the Department of Agriculture to give notice of proposed rule making and to invite the public to participate in the rule making process, this amendment is entirely administrative in nature and good cause is found that such procedures are unnecessary.

(5 U.S.C. 301; Sec. 8, Pub. L. 92-463, 86 Stat. 773, 5 U.S.C. App. I; secs. 1801-1809, Pub. L. 95-113, 91 Stat. 1041, 7 U.S.C. 2281-2289)

JOAN S. WALLACE,
Assistant Secretary for Administration.

[FR Doc. 79-6738 Filed 3-5-79; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE

PART 916—FRESH NECTARINES GROWN IN CALIFORNIA

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Findings and Determinations With Respect to the Continuation of the Amended Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document sets forth the determination with respect to the continuation of the amended marketing orders covering nectarines, fresh pears, plums, and peaches grown in California. Growers approved the continuation in a referendum held January 27-February 11, 1979.

EFFECTIVE DATE: April 5, 1979.

FOR FURTHER INFORMATION OR A FINAL IMPACT STATEMENT CONTACT:

Charles R. Brader, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250. (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings and determinations.* Pursuant to the applicable provisions of the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), notice was given in the FEDERAL REGISTER on December 8, 1978 (43 FR 57629), that a referendum would be conducted among the growers who, during the period March 1 through

December 31, 1978 (which period was determined to be a representative period for the purpose of such referendum), were engaged, in the State of California, in the production of any fruit covered by said amended marketing agreements and orders for market in fresh form to ascertain whether continuance of the said amended marketing orders as to such fruit is favored by the growers.

Upon the basis of the results of the aforesaid referendum, which was conducted during the period January 27 through February 11, 1979, it is hereby found and determined that the termination of the said marketing orders, with respect to any of the fruits covered thereby, is not favored by the requisite majority of such growers.

Dated: March 1, 1979.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 79-6745 Filed 3-5-79; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Adjustment of Status for Certain Aliens Paroled Into the United States as Refugees Prior to September 30, 1980

IMPLEMENTATION OF PUB. L. 95-412

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This final rulemaking order amends the regulations of the Immigration and Naturalization Service to implement Pub. L. 95-412 relating to adjustment of status for certain aliens paroled into the United States as refugees. The first amendment enables an eligible alien paroled into the United States as a refugee prior to September 30, 1980, to adjust his status to that of a lawful permanent resident after residing in this country for two years. The second amendment permits an alien paroled as a refugee prior to September 30, 1980, who has acquired the status of a lawful permanent resident under some other provision of law, to have his date of permanent residence recorded as of the date of his parole into the United States.

EFFECTIVE DATE: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On November 30, 1978, at 43 FR 56050 the Service published proposed rules to implement section 5 of Pub. L. 95-412 (92 Stat. 909) regarding adjustment of status for certain aliens paroled into the United States as refugees prior to September 30, 1980. In that notice of proposed rulemaking, the Service proposed to amend 8 CFR 235.9(e) to provide that an alien paroled into the United States under section 212(d)(5) of the Act as a refugee prior to September 30, 1980, who is not otherwise eligible for retroactive adjustment of status to permanent residence shall be required to appear before an immigration officer two years following such parole for the purpose of determining his or her eligibility for permanent residence. The Service proposed to add a new 8 CFR 235.9(f) to provide that refugee parolees whose status had been adjusted to that of a lawful permanent resident under another section of law could apply in writing to the district director to have their date of admission for lawful permanent residence "rolled back" to the date on which they were paroled into the United States as refugees. Existing 8 CFR 235.9(f) was redesignated as 8 CFR 235.9(g), and amended to provide rules for termination of refugee parole status following the inspection required in § 235.9(e).

In response to this notice of proposed rulemaking the Service received three representations which have all been carefully considered.

The first representation suggested that the proposed rules be amended to exempt refugee parolees who apply for adjustment under this legislation from the public charge provisions of section 212(a)(15) of the Act. This respondent argues that this action would be consistent with similar exemptions from this provision given Cuban and Indochinese refugees. Also, this writer points out that the intent to exclude expressed in section 212(a)(15) of the Act is nonexistent as to these refugees since they are already here; are already eligible for certain H.E.W. Department benefits; and that their adjustment would not affect the availability of visa numbers in any way.

There is nothing in the legislative history of section 5 to indicate that Congress expressly or impliedly intended to exempt these refugee parolees from meeting the requirements of section 212(a)(15) when they apply for permanent residence under section 203 (g) and (h) of the Act. Conditional entrants who are treated under section 203 (g) and (h) must meet the requirements of section 212(a)(15). See *Matter of Vindman*, Int. Dec. No. 2563 (R.C. 1977). The same requirements should apply to refugee parolees examined under section 203 (g) and (h). Therefore, we cannot amend the regulation to exempt refugee parolees applying for adjustment under section 5 of Pub. L. 95-412 from the public charge requirements of section 212(a)(15) of the Act.

The second representation recommended that 8 CFR 235.9(e) be broadened to include persons who were granted asylum in the United States under 8 CFR 108 prior to September 30, 1980. The rationale of this writer was that since individuals granted asylum occupy the same relative position as individuals paroled into the United States as refugees, they should also be eligible for benefits under section 5 of Pub. L. 95-412. This suggestion cannot be adopted. The specific language of section 5 of Pub. L. 95-412 makes the section applicable to "any refugee . . . who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act". While it may be true that applicants for asylum are considered refugees, not all persons granted asylum entered this country as parolees under section 212(d)(5) of the Act. Since parole pursuant to section 212(d)(5) of the Act is a statutory prerequisite to eligibility for the benefits of section 5, we cannot, by regulation, broaden this provision to extend eligibility for benefits to persons who were not paroled into this country.

The third representation criticized several aspects of the "roll back" provision contained in proposed new 8 CFR 235.9(f).

The first criticism was that the right of a refugee parolee to have his date of lawful admission for permanent residence "rolled back" to the date of his parole into the United States was statutory and should operate automatically and that no implementing regulations were necessary.

Section 5 does not specifically provide that refugee parolees who have already become permanent residents under other provisions of law are eligible for a "roll back" of their date of admission for permanent residence. However, upon examining the legislative intent behind section 5 we concluded that such a "roll back" provision was necessary to effectuate the Congressional intent of putting paroled refugees on essentially the same footing as Indochinese and Cuban refugees who were given such a "roll back". Implementing regulations are

necessary in view of the ambiguity in the statutory language.

This writer also contended that since the "roll back" right was conferred by statute, adjudication by a district director was not necessary nor should it be imposed by regulation. We cannot accept this argument. Under Service regulations, district directors have the authority to grant and deny petitions and applications for benefits or relief under the immigration and nationality laws and regulations. Applications for the "roll back" of a date of permanent residence under section 5 are applications which must be adjudicated by district directors. Therefore, the provision of the proposed rule requiring submission of the "roll back" application to the district director will not be changed.

The third criticism of this proposed rule concerned the need to issue new Alien Registration Cards to all refugee parolees eligible for "roll back", especially when the granting of the "roll back" would make the applicant immediately eligible to apply for naturalization. This argument has merit and the final rule will be amended to provide that where the "roll back" would make the applicant eligible to apply for naturalization and he indicates a desire to apply for naturalization immediately, no new Alien Registration Card need be issued. However, in those instances where the "roll back" would not confer eligibility for naturalization or the person, if eligible, does not indicate a desire to apply for naturalization immediately, the Service will require that a new Alien Registration Card be issued.

The proposed rules will be amended in the following respects:

(1) Proposed 8 CFR 235.9(e) will be amended by adding a new sentence to the end. That sentence will provide that where the inspection and admission of an alien under this regulation would make him eligible to apply for naturalization, his case will be processed in accordance with 8 CFR 235.9(f)(3), if he or she wishes to apply for naturalization immediately. This amendment is being made to facilitate the naturalization of eligible refugee parolees.

(2) Proposed 8 CFR 235.9(f) will be subdivided into three subparagraphs. Subparagraph (1) will contain general instructions concerning the manner in which "roll back" applications are to be filed. These general instructions will also require the applicant for a "roll back" to submit Form G-325, Biographic Information and FD-258, Fingerprint Chart, as part of the "roll back" application. This is necessary in order to update the information in the applicant's file subsequent to his or her adjustment of status to that of a permanent resident. Subparagraph (2) will provide that the applicant for a "roll back" who is not thereby eligible for naturalization, or who, if eligible does not wish to file an application for naturalization immediately, shall submit the required photographs and be issued a new Alien Registration Card. Subparagraph (3) will provide that where approval of the "roll back" application would make the applicant eligible to apply for naturalization and he or she indicates an intention to file an application for naturalization immediately, the applicant will be provided the forms and instructions necessary to apply for naturalization, and a new Alien Registration Card need not be issued.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. Section 235.9 is amended by revising subparagraph (e), redesignating existing subparagraph (f) as (g), adding a new subparagraph (f), and by revising newly designated subparagraph (g) by amending the first, second, and seventh sentences as set forth below.

§ 235.9 Conditional entries.

* * * * *

(e) *Inspection of conditional entrant and refugee parolee as to admissibility for permanent residence.* Each alien who has been (i) admitted under section 203(a)(7) as a conditional entrant; or (ii) paroled under section 212(d)(5) of the Act as a refugee prior to September 30, 1980, who is not otherwise eligible for retroactive adjustment of status to permanent resident; shall be required to appear before an immigration officer two years following conditional entry or parole. If over 14 years of age, such conditional entrant or parolee shall be interrogated under oath by an immigration officer and a determination of admissibility shall be made in accordance with sections 235 and 236 of this chapter. Except as provided in Parts 245 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under section 212(g), (h), or (i) of the Act, insofar as they relate to the excludability of an alien in the United States. The case of an alien who is inspected and admitted under this part who is eligible for and wishes to apply for naturalization immediately shall be processed in accordance with § 235.9(f)(3) of this chapter.

(f) *Request to "roll back" permanent residence date by permanent resident who was paroled into the United States as a refugee.* (1) *General.* A request by a permanent resident who was originally paroled into the United States as a refugee before September 30, 1980 to "roll back" his/her date of acquiring permanent residence to the date of original parole as a refugee shall be made in writing to the district director having jurisdiction over the applicant's place of residence. Each request shall be accompanied by the Alien Registration Card, Form I-151 or Form I-551, previously issued to the applicant, and completed Forms G-325 and FD-258. In the case of an applicant who is eligible for and wishes to apply immediately for naturalization, the request shall contain a statement to that effect. The decision on the request shall be made by the district director, and no appeal shall lie from that decision.

(2) *Applicants for "roll back" who are not eligible for or do not wish to file an application for naturalization immediately.* Where the recipient of a "roll back" would not be immediately eligible to apply for naturalization, or if eligible, does not wish to do so immediately, his/her "roll back" request shall be accompanied by three identical color photographs taken within the past thirty days, which must comply with the requirements of an ADIT card. These requirements may be obtained from any office of the Immigration and Naturalization Service. If the request is approved, the applicant shall be furnished a new Alien Registration Card bearing the new date as of which the lawful admission for permanent residence has been recorded.

(3) *Cases in which "roll back" would make applicant immediately eligible for naturalization and applicant intends to file such application immediately.* Where a "roll back" of the date of permanent residence under this regulation would make the applicant immediately eligible for naturalization, and the applicant indicates a desire to file an application for naturalization immediately, the district director shall receive the "roll back" application and process it as provided in subparagraph (1) above. If the "roll back" application is granted, the new date as of which the lawful admission for permanent residence has been recorded shall be entered on Form I-181 and placed in the applicant's file. The applicant shall then be furnished the appropriate forms and instruction for filing his/her application for naturalization. A new Alien Registration Card need not be issued under these circumstances. In cases where a new Alien Registration Card is not issued, Form I-181 will be so noted.

* * * * *

(g) *Termination of conditional entrant or refugee parole status.* Whenever a district director has reason to believe that a conditional entrant under section 203(a)(7) or an alien paroled under section 212(d)(5) before September 30, 1980 as a refugee, whose status has not otherwise been terminated or changed, is or has become inadmissible to the United States under any provision of section 212(a) of the Act (except section 212(a)(20)), he shall, in the case of a parolee, comply with § 212.5(b) of this chapter, and thereafter serve on either class of alien Form I-122, Notice to Alien Detained for Hearing Before Immigration Judge, in accordance with the provisions of § 235.6. The alien shall be referred for a hearing before an immigration judge in accordance with the provisions of sections 235, 236, and 237 of the Act and of this chapter. * * * An appeal shall lie from the decision of the immigration judge in accordance with the provisions of § 236.7 of this chapter.

§ 235.9 [Amended]

2. Also in redesignated § 235.9(g), in the third sentence change "special inquiry officer" to read "immigration judge"; in the fifth sentence change "a special inquiry officer" to read "an immigration judge"; in the sixth sentence change "special inquiry officer" to read "immigration judge".

(Sec. 103; 8 U.S.C. 1103; and sec. 5 of Pub. L. 95-412, 92 Stat. 909)

Effective date: The amendments contained in this order become effective on March 6, 1979. The amendments contained in this order are being made effective on less than 30 days notice because compliance with the 30 day notice requirement of 5 U.S.C. 553(d) would be impracticable and contrary to the public interest in this instance, because it would only delay implementation of section 5 of Pub. L. 95-412 and delay the conferring of benefits on refugee-parolees who are eligible under this section.

Dated March 1, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-6751 Filed 3-5-79; 8:45 am]

[1505-01-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 85—PSEUDORABIES

Pseudorabies Regulations

Corrections

In FR Doc. 79-5053 appearing at page 10306 in the issue for Friday, February 16, 1979, make the following changes:

1. On page 10307, first column nineteenth line from the top "vaccinated" should read "vaccinate"; second column, nineteenth line from the bottom, "the" should read "and".

2. On page 10311, first column, fifth line of paragraph (cc) of § 85.1, insert "a" after "by".

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to quarantine portions of Los Angeles County, California, and a portion of Riverside County in California because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Los Angeles County and Riverside County, California on February 22, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine a portion of such counties.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Maryland 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment quarantines portions of Los Angeles County, California, and a portion of Riverside County, California, because of the existence of exotic Newcastle disease in such areas. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, (a)(1), relating to the State of California, new paragraphs (ii) and (iii) relating to Los Angeles County, and a new paragraph (iv) relating to Riverside County are added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *California.*

* * * * *

(ii) The premises of Dixie Lee Campbell, 16405 Cornuta Avenue, Bellflower, Los Angeles County.

(iii) The premises of Nellard R. Berne, 13742 Fairlock, Paramount, Los Angeles County.

(iv) That portion of Riverside County bounded by a line beginning at the junction of Victoria Avenue and Van Buren Boulevard and extending along Victoria Avenue in a northeasterly direction to Allesandro Boulevard; thence following Allesandro Boulevard in a southeasterly direction to Interstate Highway 15 E; thence following Interstate Highway 15 E in a southeasterly direction to Cajalco Road; thence following Cajalco Road in a westerly direction to Mockingbird Canyon Road; thence following Mockingbird Canyon Road in a northwesterly direction to Van Buren Boulevard; thence following Van Buren Boulevard in a northwesterly direction to its junction with Victoria Avenue.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, from the quarantined areas and, therefore, must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of February 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by M. A. Mixson, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of exotic Newcastle disease into other States or Territories of the United States from the quarantined areas is severe enough to constitute an emergency which warrants the publication of this quarantine without waiting for public comment. This amendment, as well as the complete regulation, will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-6683 Filed 3-5-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the Interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period January 1, 1979, through January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461, (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal.

Issued in Washington, D.C., February 27, 1979.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX—INTERPRETATIONS

No.	To	Date	Category	File No.
1979-01	John Gould, Jr.	January 12	Price	A-356
1979-02	Placid Oil Company	January 31	Price	A-256

INTERPRETATION 1979-01

To: John Gould, Jr.
Regulations and Rulings Interpreted: 10 CFR 212.72; 212.74(a); Ruling 1975-15; Ruling 1977-1
Code: GCW—PI—Property, def.; BPCL

FACTS

John Gould, Jr. (Gould) is a crude oil producer subject to the price regulations set forth in 10 CFR Part 212, Subpart D. Under a "farmout" lease, Gould possesses the production rights to the northeast quarter of the northest quarter of Section 451, Block 27, H & TC RR Co. Survey, Scurry County, Texas (the Gould lease), and Gould now intends to reenter the Pan American Baggett A-2 well (the Baggett A-2 well), located on this lease.

According to the facts submitted in this case, the base lease conveyed the right to produce crude oil from the entire north half of Section 451. The Stanolind Oil and Gas Baggett No. 1 well (the Baggett No. 1 well), completed in 1951, is located on the southest 40 acres of the base lease, which were unitized with other rights to produce crude oil in 1955. The Baggett A-2 well, the proposed reentry well, is located on the lease that Gould obtained by assignment of a portion of the base lease that remained after the unitization in 1955. The Baggett A-2 well was drilled in 1967 and produced crude oil until July 1971, when it was plugged and abandoned. Other than the crude oil produced from the Baggett No. 1 well and the Baggett A-2 well, there has been no production under the base lease.

ISSUE

Where there was no production and sale of crude oil in 1972 or in 1975 from that portion of the base lease that remained after part of the base lease was unitized, will production and sale of crude oil from a well on that remaining portion of the lease qualify for upper tier ceiling prices as set forth in 10 CFR 212.74?

INTERPRETATION

Section 212.74(a) provides that, with respect to new crude oil, "a producer may in any month charge a price not to exceed the upper tier ceiling price in first sales of new crude oil." Volumes of crude oil produced and sold in any given month may be certified as new crude oil when the total production and sale of crude oil from a property in that month exceeds the property's base production control level (BPCL), plus any current cumulative deficiency. Pursuant to § 212.72, with respect to months commencing after January 31, 1976, BPCL means either:

(a) the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; or

(B) if the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned.

The term "property" is defined in pertinent part in § 212.72 as "the right to produce domestic crude oil, which arises from a lease or from a fee interest. . . ."

However, in the present case, the Department of Energy (DOE) need not determine which lease—the Gould lease or the base lease—constitutes the property for purposes of determining whether any new production from the Baggett A-2 well would qualify for treatment as new crude oil. The only production and sale of crude oil from either lease has been from the Baggett A-2 well, and no crude oil was produced and sold from that well in 1972 or in 1975.[1] There-

[1]The 40 acres on which the Baggett No. 1 well is located ceased to be a part of the base lease as of the time this 40 acres was unitized in 1955. In regard to partial unitization of interests, Ruling 1977-1, 42 FR 3628 (January 19, 1977), states:

fore, regardless of whether the Gould lease or the base lease is considered the property from which the Baggett A-2 well produces crude oil, the BPCL equals zero.[2]

The issue of determining the BPCL for a property has been addressed by the DOE in several rulings and interpretations.[3] In those instances, the DOE has stated that where there was no production and sale of crude oil from a property in 1972 or in 1975, the BPCL for that property is zero. Any later production qualifies as new crude oil and is therefore subject to the upper tier crude oil price rule as set forth in § 212.74.

According to the facts presented in this case, there was no production and sale of crude oil from either the base lease or the Gould lease in 1972 or in 1975, the BPCL is therefore zero. Thus, all crude oil produced from the Baggett A-2 well will be classified as new crude oil upon proven certification pursuant to § 212.131(a)(2)(B), and may therefore be sold at the applicable upper tier ceiling price for first sales of new crude oil.

Issued in Washington, D.C. on January 12, 1979.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations & Rulings.

INTERPRETATION 1979-02

To: Placid Oil Company
Regulations and Rulings Interpreted: 10 CFR 212.83 and 212.167(b)(3); Ruling 1975-6
Code: GCW-PI-Natural Gas Shrinkage

FACTS

Placid Oil Company (Placid) is engaged in the production of natural gas as the operator of the Black Lake Pettit Zone Unit, Black Lake Field, Natchitoches Parish, Louisiana (Black Lake). A reservoir containing crude oil and natural gas was discovered in 1964 at Black Lake.

Placid sought approval of a full pressure maintenance program at Black Lake, rather than having the Louisiana Conservation Commission initiate a fact-finding proceeding with the likelihood of a contested hearing. With respect to the Black Lake operations, a gas cycling full pressure maintenance program was intended to increase recovery of crude oil and condensate. The program was not expected to improve the overall recovery of either natural gas or natural gas liquids (NGL's). Three benefits generally result from a gas cycling full pressure maintenance program such as the one initiated by Placid:

(1) pressure maintenance limits the influx of water into the reservoir;

(2) as the reinjected dry gas expands into the oil rim (not to be confused with the gas cap), oil is absorbed thereby increasing the overall recovery of crude oil; and

(3) maintenance of reservoir pressure reduces retrograde condensate losses thereby increasing the overall recovery of condensate.

Unitization of the reservoir and the recommended plan of operation were approved by the Department of Conservation, and made effective January 1, 1966. Sales of natural gas volumes from Black Lake were deferred from 1965 to 1975 pursuant to Orders of the State of Louisiana Department of Conservation. By Order #686-A-3 dated December 20, 1965, the Department of Conservation determined that a "unitized gas cycling and pressure maintenance operation of the Pettit Zone Reservoir is reasonably necessary. . . ." The Order also provided for the purchase of additional volumes of gas from third parties for injection into the reservoir in addition to all the natural gas production from Black Lake. On August 21, 1975, Order #686-A-6 was issued by the Department of Conservation permitting a decrease in the volumes of gas to be injected and authorizing a delivery of a portion of the natural gas production.

All of Placid's interest in the Black Lake Field natural gas was committed and sold pursuant to two separate contracts dated August 1975 to Louisiana Intrastate Pipeline Company and Placid Refining Company. Currently, Black Lake natural gas is being delivered under these contracts at the specified rate.

Placid is the owner and operator of a gas plant at which NGL's are extracted from natural gas produced at Black Lake. Sale of such NGL's commenced in April 1967.

Part 212 of the Mandatory Petroleum Price Regulations has always permitted the recoupment of increased costs of "wet" gas consumed in the extraction of NGL's by the inclusion of increased "cost of natural gas shrinkage" in the calculation of maximum lawful prices. 10 CFR 212.162; 212.167(b)(3). *See* Ruling 1975-6, 40 FR 23272 (May 29, 1975). Placid calculated increased shrinkage costs associated with the extraction of NGL's from Black Lake natural gas in the following manner:

(a) August 1973 through July 1975—Shrinkage costs, measured on an Mcf basis, were calculated according to the "inlet-outlet" method sanctioned by Ruling 1975-18, 40 FR 55860 (December 2, 1975), except as set forth below. The sales price for residue gas in May 1973 was imputed, based on a neighboring field price per Mcf. Sales prices for residue gas in the relevant month were imputed according to prices in the same neighboring field.

(b) August 1975 through December 1975—Shrinkage costs, measured on an Mcf basis, were calculated according to the "inlet-outlet" method sanctioned by Ruling 1975-18, *supra*. A current residue gas selling price per Mcf was employed in shrinkage calculations based on the then current prices according to contracts for sale of Black Lake natural gas between Louisiana Intrastate Gas Corporation and Placid Refining Company.

(c) January 1, 1976 to the present—Shrinkage costs, measured on a Btu basis, were calculated according to Ruling 1975-18, *supra*. Current month residue gas sales prices per MMBtu were employed in shrinkage calculations according to contracts for sale of Black Lake natural gas with Louisiana Intrastate Gas Corporation and Placid Refining Company.

Placid, owning approximately percent of Black Lake, claimed a total of about million of increased shrinkage costs from August 1973 to August 1, 1975. Placid alleges that if it had not claimed any increased shrinkage costs when computing maximum lawful prices, then continuation of the gas cycling full pressure maintenance program could not have been justified economically on either a "present worth" or "ultimate recovery" basis. Placid, therefore, asserts that it would have been forced to agree to initiate gas sales, which the minority interest owners had sought from the beginning of production at Black Lake. (Placid would have had the right to present evidence to the Department of Conservation that the method by which it produced natural gas from Black Lake could not be economically justified. The Department of Conservation could then have rescinded Order #686-A-3 and permitted gas sales from Black Lake.) In such event, however, Placid alleges that the ultimate recovery of liquid hydrocarbons would have been reduced.

ISSUE

Has Placid, as described above, properly calculated its increased "cost of natural gas shrinkage" with reference to NGL's extracted from Black Lake natural gas?

INTERPRETATION

For the reasons set forth below, the Department of Energy (DOE) has concluded that the manner in which Placid describes that it calculated its increased cost of natural gas shrinkage prior to August 1, 1975, was not permitted under the Mandatory Petroleum Price Regulations. For the period from August 1, 1975, Placid may use the contractual price in effect for delivered residue gas in calculations to determine its increased shrinkage costs.

Placid is a "refiner" as defined in 10 CFR 212.31 and a "gas plant owner" and "gas plant operator" as defined in § 212.162.

Prior to the promulgation of Part 212, Subpart K, effective January 1, 1975, the more general refiner price regulations governed the proper pricing of NGL's. *National Helium Corp.* v. *FEA*, 569 F.2d 1137 (TECA 1977); *Mobil Oil Corp.* v. *FEA*, 566 F.2d 87 (TECA 1977).[1] The then applicable refiner

[2] It is important to note that this conclusion is based on the particular facts presented in this case and would not necessarily be correct as to other factual situations. For instance, if there were production in 1972 or in 1975 from wells located on the base lease but not on the Gould lease, an important issue would be whether the Gould lease alone constitutes a property within the meaning of § 212.72.

It is not uncommon for less than the total premises subject to a right to produce to be unitized or otherwise aggregated with all or portions of premises subject to other rights to produce, to form a single "property," leaving the balance of the premises formerly subject to a single right to produce not aggregated with any other such rights. The portion of the premises which is not aggregated is appropriately recognized as a property separate and apart from the portion of the premises which has been aggregated with other rights to produce.

Therefore, in determining the BPCL for the base lease, volumes produced and sold from the 40 acres on which the Baggett No. 1 well is located are not considered.

[3] Ruling 1975-15, 40 FR 40832 (September 4, 1975), specifically deals with definitions for purposes of computing BPCL. *See Mobley Oil Company*, Interpretation 1978-6, 43 FR 15617 (April 14, 1978), which discusses both the method of calculating BPCL as interpreted by Ruling 1975-15 and under amended § 212.72, effective after January 31, 1976.

[1] The refiner price regulations effective from August 19, 1973 to December 31, 1974, issued by predecessor agencies of the Department of Energy (DOE), the Cost of Living Council, the Federal Energy Office and the Federal Energy Administration (FEA), were often amended in ways not pertinent to this issue.

price regulations—designed specifically to address crude oil refineries—were not altogether well-suited for gas processing plants. Thus, those regulations did not expressly treat certain increased raw material product costs associated with the manufacture of NGL's from "wet" natural gas. In the preamble to the proposed Subpart K, the FEA acknowledged this problem stating:

The refiner price rules of the FEA are not, however, well-suited for regulating prices of liquid products produced from natural gas by gas processors, since the operations of a gas plant are quite different from those of a refinery. In effect, the application of the refiner price rules to gas plants has had the result of limiting the lawful prices of natural gas liquids to essentially their May 15, 1973, levels, since gas plants have typically had little or no increased cost of natural gas, from which natural gas liquids are produced. The natural gas from which these liquids are extracted is not consumed in the process, as is crude oil in the refining process. Rather, there is a "shrinkage" in the volume and Btu content of the gas. 39 FR 32718, 32719 (September 10, 1974).

In order to clarify the treatment of increased product costs for gas processors in the period prior to promulgation of Subpart K, the FEA issued Ruling 1975-6, 40 FR 2372 (May 29, 1975).[2] That ruling states, in pertinent part, that:

Although Subpart E of Part 212 of FEA's regulations specifically addresses only the pass through of the increased cost of crude petroleum and petroleum product, a comparable dollar-for-dollar passthrough of increased shrinkage costs is also permitted. . . . *The cost of such shrinkage is the reduction in sales revenues that could otherwise have been received for the natural gas pursuant to the contract under which the gas is being sold, if its volume or Btu content had not been reduced through processing to extract natural gas liquids.*

Accordingly, *where the natural gas sales revenues are reduced by processing,* and where the selling price of the natural gas that has been processed has increased since May 15, 1973, *the cost of shrinkage resulting from extraction of the liquids will also have increased.* The FEA considers this increased shrinkage to be an "increased product cost" under § 212.83 and it may therefore be recovered on a dollar-for-dollar basis in [the firm's] base prices for natural gas liquid products in the month following the month of measurement.

The cost of shrinkage shall be determined by comparing the value of the natural gas prior to processing with the value of the natural gas after processing. The value of the natural gas stream for this purpose *shall be computed by reference to the contractual terms in effect for the sale of [the firm's] "residue" natural gas during the relevant month.* (Emphasis added.)

Thus, increased shrinkage costs are designed to permit recoupment in NGL prices of the reduction in sales revenue resulting from the processing of natural gas by reference to the contractual price terms in the relevant month for that residue gas.

Increased shrinkage "costs" are a compensation for lost opportunites, *i.e.*, opportunities to sell the natural gas without extracting the liquid content of the "wet" stream. This opportunity cost is measured "by reference to the contractual terms in effect for the sale of [the firm's] 'residue' natural gas during the relevant month." *Id.* Subpart K now imposes the same general requirements for measuring shrinkage costs in § 212.162, which states in pertinent part:

"Cost of natural gas shrinkage" means the reduction in selling price per thousand cubic feet (MCF) of natural gas processed, which is attributable to the reduction in volume or BTU value of the natural gas resulting from the extraction of natural gas liquids, *as determined pursuant to the contract in effect at the time for which cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold.* (Emphasis added.)

We have recently considered the propriety of shrinkage calculations pursuant to Subpart K when no sales of residue gas were made in the current month. *Martin Exploration Company,* Interpretation 1978-27, 43 FR 25085 (June 9, 1978). Martin's operation of the Wilcox Unit parallels Placid's operation of Black Lake in important aspects:

Martin is delaying sales of natural gas from the Wilcox Unit to maintain a pressure cycling operation to increase the ultimate recovery of condensate from that unit. . . . [S]ince there is no sale of the processed natural gas, it is impossible for the firm to determine "cost of natural gas shrinkage" in accordance with the express language of § 212.162. *Id.*

Furthermore, Martin suggested, as Placid has, that a residue gas sales price be imputed from a neighboring field as a reasonable alternative to a literal reading of § 212.162. In response to Martin's contention the Interpretation explained:

Martin suggests that the highest gas sales price which Martin is receiving under a contract covering its properties in South Louisiana during the month of extraction could be used to obtain an "imputed" price.

In its submission Martin recognizes the speculative nature of estimating the opportunity costs associated with NGL extraction and the necessity of *constructing* a method of measuring increased shrinkage costs at the Wilcox Unit. Contrary to Martin's assertions, formulating a method to compensate for the loss of gas revenues resulting from NGL extraction is not a simple, straightforward process. For example, the imputed figures must speculatively and implicitly determine whether the gas will be sold subject to price regulation and sold on a British thermal unit (Btu) or volumetric (Mcf) basis. . . .

The interpretations process is neither a substitute nor an alternative forum for rulemaking or exception relief. Issues of equity and the maximization of general energy policy objectives are best resolved on the basis of the extensive factual information which can be developed in those forums. *Id.*

Because the requirements, pertinent to these facts, for measuring increased shrinkage costs under Subpart K and Ruling 1975-6, *supra,* are identical, Placid's imputation of prices at Black Lake for residue gas sales based on neighboring field prices was not proper.

Placid maintains that increased product costs, including increased cost of natural gas shrinkage, must be passed through on a dollar-for-dollar basis in conformance with § 4(b)(2) of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. No. 93-159 (November 27, 1973).[3] Placid argues that by imputing residue gas sales prices from neighboring fields it was simply acting in accord with § 4(b)(2) at a time before Ruling 1975-6 was issued when the Subpart E refiner price rules neither explicitly nor unambiguously authorized recoupment of increased shrinkage costs. Placid argues that to disallow increased shrinkage costs because of the failure to follow the method specified in Ruling 1975-6, *supra,* which was not issued until after the time when those calculations were to be made would violate the dollar-for-dollar passthrough requirement contained in § 4(b)(2) of the EPAA.[4]

It should be noted that the refiner price regulations in Subpart E provided no express authorization for any shrinkage calculations whatsoever. Ruling 1975-6, *supra,* was the first official pronouncement that such costs could properly be claimed. After issuance of that Ruling Placid first calculated and claimed shrinkage costs in the manner previously described. Since the regulations in effect prior to Ruling 1975-6, *supra,* did not specifically authorize any shrinkage calculations, then Placid's method must conform with the limits of the elective, retrospective benefit offered by Ruling 1975-6, *supra.*

Ruling 1975-6, *supra,* was issued "to make explicit that the regulations of Subpart E . . . afford [a] dollar-for-dollar passthrough of the increased costs of natural gas shrinkage, *in the same manner as is now expressly provided for in Subpart K.*" Computation and recoupment of increased shrinkage costs were designed to compensate on a dollar-for-dollar basis for lost revenues resulting from the extraction of the liquids from the wet natural gas stream. § 212.167(a). For gas processors, increased shrinkage costs are the equivalent of an increased product cost in their operations and are so treated for regulatory purposes pursuant to both the Subpart E and the Subpart K regulations. Ruling 1975-6, *supra;* 39 FR 44407, 44409-10 (December 24, 1974). While the opportunity costs described as in-

[2] Ruling 1975-6, *supra,* represents the official regulatory position concerning the allowance and computation of increased shrinkage costs prior to the promulgation of Subpart K.

[3] 15 U.S.C. 751, *et seq.* (1976).

[4] Section 4(b)(2)(A) of the EPAA, as amended, states as follows:

(2) In specifying prices (or prescribing the manner for determining them), the regulation under subsection (a)—

(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level; . . . .

Prior to its amendment on December 22, 1975, in the EPCA, Pub. L. No. 94-163, effective February 1, 1976, § 4(b)(2)(A) of the EPAA applied only to refiners marketing "at the retail level." Although this provision speaks directly only to "crude oil, residual fuel oil, and refined petroleum products," the Temporary Emergency Court of Appeals has upheld DOE's statutory authority to regulate natural gas liquids and natural gas liquid products stating:

"We are convinced that Congress contemplated substantially greater coverage for the EPAA than would result from strict adherence to the technical meanings of the terms 'crude oil, residual fuel oil, and refined petroleum products.'"

Mobil 566 F.2d at 99 (citation omitted); *accord, National Helium.*

creased shrinkage costs are the equivalent of increased product costs, such "costs" do not represent outlays of dollars and therefore cannot be recouped on an exact dollar-for-dollar basis. *Kansas-Nebraska Natural Gas Co.*, Interpretation 1978-41, 43 FR 29548 (July 10, 1978). Section 4(b)(2)(A) of the EPAA does not require that Placid be permitted to impute a value in dollars of residue gas not sold, which value may then be employed in shrinkage calculations.

Increased shrinkage costs were designed to compensate, on a dollar-for-dollar basis, for a lost opportunity which Placid did not incur. Placid did not receive smaller gas sales revenues from August 1973 to July 1975 as a result of the extraction of natural gas liquids, because Placid did not sell Black Lake natural gas in that period. As the DOE has stated in an exception decision:

In the present case Twin-Tech does not actually incur any increased costs of natural gas shrinkage *because it does not sell its residual natural gas and does not therefore, experience a 'reduction in sales revenues.'*

Twin-Tech Oil Company, 5 FEA ¶83,126, at 83,561 (March 28, 1977), *aff'd*, 6 FEA ¶80,565 (September 30, 1977), *aff'd sub nom., Twin City Barge & Touring Company v. Schlesinger*, No. H-77-1577 (S.D. Tex., Nov. 13, 1978). Placid maintains that once the liquids are extracted, sales revenues from the natural gas must perforce be reduced. The fact that this lost opportunity cannot be measured in the conventional way, Placid asserts, should not preclude recovery of these "costs" pursuant to § 4(b)(2) of the EPAA. Nevertheless, increased shrinkage costs are recognized for cost computation and allocation only when the gas sales revenues due to extraction are lost, i.e., when the residue gas is sold. Prior to that time, there is no guarantee that the gas will be sold and that a firm will actually incur any lost opportunity cost.

Placid argues that shrinkage costs were acutally incurred, because the raw material, natural gas, was consumed in the process of extracting natural-gas liquids. Placid asserts that the only relevance of the residue gas sales contract is that it provides one method, but not the only method, of placing a value on the raw materials which a gas processor uses to manufacture natural gas liquids. Placid bolsters its conclusion by reference to various administrative precedents which either interpret the term "produced and sold" to include the internal consumption of crude oil, *Phillips Petroleum Co.*, Interpretation 1977-12, 42 FR 31148 (June 20, 1977); *Tenneco Oil Co.*, 5 FEA ¶80,506 (December 21, 1976), or require the allocation of increased costs to products consumed internally, Ruling 1974-27, 39 FR 44415 (December 24, 1974). These precedents, according to Placid, demonstrate that the key consideration is "value," a factor which exists regardless of the existence of an actual residue gas sales contract.

Placid's reliance on these precedents is misplaced, because the key consideration is the *reduction in revenue* in natural gas sales attributable to the extraction of NGL's. Ruling 1975-6, *supra*; § 212.162; 39 FR 44407, 44409 (December 24, 1974). If the natural gas is injected into the ground instead of sold, then there is no reduction in gas sales revenue in the relevant current month resulting from the extraction of liquids. The amount of gas sales revenue lost as a result of NGL extraction is measured by the contracts under which the processed gas is sold, because the liquids would presumable have been sold under those contracts as part of the "wet" gas had no processing occurred. Until and unless the processed natural gas is sold, there is no current increased lost opportunity cost to Placid from extracting NGL's.

Placid also argues that imputing a residue gas sales price from a neighboring field is supported by analogy and reference to the crude oil producer price regulations contained in Subpart D. Those rules generally and historically have permitted imputation of a posted price where necessary by reference to the posted price for "that grade of domestic crude oil which is most similar in kind and quality in the nearest field . . . ." §§ 212.73; 212.74.

There is no authorization in any pronouncement of the DOE, or its predecessor agencies, which permits the *ad hoc* incorporation of Subpart D producer price rules into the refiner price rules of Subpart E and Subpart K. Additionally, there are sound reasons for rejecting the analogy in this instance. Crude oil prices are administered prices, i.e., the maximum lawful prices that may be charged and are not specifically and directly related to costs actually incurred, nor to lost opportunity costs incurred as in shrinkage cost determinations. Under the non-cost related crude oil pricing regulations, the important references for imputation are the physical characteristics and location of the crude oil. Because processed natural gas sales revenues depend on the applicability of varying natural gas pricing regulations and on whether relevant contracts base price terms on volume (Mcf) or heating value (Btu), there is no assurance that prices used in one gas field will in any way approximate the price opportunities in another field. Placid maintains that the prices in the field which were selected for use in its shrinkage calculations were reasonable and did not represent the highest prices which could have been selected. Nevertheless, the fact that Placid may have imputed a "reasonable" price does not mean that imputation is sanctioned by the price regulations.

Finally, Placid asserts that if it were aware that increased shrinkage costs were not available where there were no sales of residue gas, then Placid would have applied to the Louisiana Conservation Commission for permission to make immediate sales of natural gas and to discontinue the pressure cycling program. According to Placid, without allowance of shrinkage costs its pressure cycling program could not have been economically justified to the Louisiana Conservation Commission. Thus, Placid delayed sales of residue gas thereby increasing production of condensate allegedly without knowledge that such a course would frustrate recovery of its raw material costs. Many of Placid's contentions, including this one, are potentially cognizable in the exceptions process, but do not assist the proper construction of the pricing regulations. In fact, on a prospective basis, one company has been granted price relief through the exceptions process to account for the economics of a similar pressure maintenance operation. *Martin Exploration Company*, 2 DOE ¶—— (January 5, 1979).

Accordingly, as described above for the period from August 19, 1973, through December 31, 1974, Placid has not calculated its increased cost of natural gas shrinkage in conformance with the price regulations.

From January 1, 1975, through July 31, 1975, Placid made no sales of residue gas. During that period Placid's pricing of NGL's was governed by Subpart K. As discussed previously, in *Martin* we held that shrinkage costs were not allowed under Subpart K unless there were sales of residue gas in the relevant month. Placid has offered no reason to depart from the rationale of that Interpretation and, therefore, we conclude that Placid has not calculated its increased costs of natural gas shrinkage from January 1, 1975, through July 31, 1975, in conformance with the price regulations.

From August 1, 1975, to the present, Placid has made sales of residue gas in the relevant current month. In its shrinkage calculations during this period, Placid has used the weighted average selling price of residue gas according to the contracts in effect during the month the gas is processed. Thus, Placid's use in its shrinkage calculations of the weighted average selling prices according to its contract prices of residue gas in sales in the relevant current month from Black Lake from August 1975 to the present is and was proper.[3]

Issued in Washington, D.C. on January 31, 1979.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings.

[FR Doc. 79-6602 Filed 3-5-79; 8:45 am]

[3] Of course, since Placid made no sales of Black Lake residue gas on May 15, 1973, the appropriate imputed price of per MMBtu must be employed. § 212.170.

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6028; 34-15581; 35-20933; IC-10599; AS-261]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Accounting Changes by Oil and Gas Producers

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Commission is announcing its views on accounting changes by oil and gas producers. Registrants are required by the Commission's rules to adopt a specified form of successful efforts or full cost accounting for fiscal years ending after December 25, 1979. If conforming the company's present accounting method to the specified version of that method will have a significant impact on the company's financial statements, the Commission has concluded that the company may then change to either of

the specified forms of accounting. However, in most cases, the Commission would expect registrants to adopt the method that more closely corresponds to the accounting practices currently being followed. Based on its conclusions in ASR No. 253, the Commission does not believe, however, that subsequent accounting changes between the specified successful efforts and full cost methods would be in the interests of investors.

DATE: February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

James L. Russell, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: The Commission's conclusions concerning financial accounting and reporting standards for oil and gas producing companies were announced in Accounting Series Release ("ASR") No. 253 [43 FR 40688], August 31, 1978. That release outlined a series of steps covering several years seeking the development of "reserve recognition accounting." The Commission concluded that companies in this industry should be permitted to continue to follow specified forms of the two historical-cost accounting methods during this period. Rules relating to the application of successful efforts accounting (which conform to the standards of Statement No. 19 of the Financial Accounting Standards Board) were adopted in ASR No. 253.[1] Rules for the application of full cost accounting for companies following that method were adopted in ASR No. 258 [43 FR 40724], December 19, 1978.

CHANGES TO COMMISSION-SPECIFIED METHOD

Registrants are required to adopt one of the two specified accounting methods prescribed by the Commission in § 210.3-18 for fiscal years ending after December 25, 1979, with retroactive restatement of financial statements for prior periods. Conforming to either of these methods could have a significant effect on a registrant's financial statements, thus causing a change in accounting. In such cases, the Commission will not object if a registrant changes to either of the specified methods. However, the Commission expects that in most instances registrants will choose the Commission-mandated accounting method that more closely corresponds to the present accounting practices followed by the registrant.

[1]Technical amendments to these rules were adopted in ASR No. 257 [43 FR 60404], December 19, 1978.

Since the Commission has promulgated rules that establish accounting standards for oil and gas producers, a change to either of the methods contained in those rules will be exempt from Instruction 4(f) of Form 10-Q, which requires registrants to state the reasons for any accounting change which they adopt and to furnish a letter from their independent accountants indicating whether the change is to an alternative principle that is preferable under the circumstances.

In order not to discourage voluntary early implementation of accounting standards, the Commission will not object to adoption of the specified full cost method by companies who had previously changed from the full cost method to the successful efforts method in early compliance with FASB Statement No. 19, prior to the publication of ASR No. 253 (even though this would not meet the significant change criterion).

SUBSEQUENT CHANGES

In ASR No. 253 the Commission discussed the basis for its conclusions on accounting methods for oil and gas producing companies. In doing so, the Commission expressed the belief that neither successful efforts nor full cost provides sufficient information to investors with respect to a company's assets and earnings. The decision to permit continued use of both methods on a short-term basis was predicated on the belief that neither method was sufficiently preferable to justify a requirement that all companies adopt one of these as a uniform method. The Commission heard numerous arguments during the course of its oil and gas proceeding as to why either successful efforts or full cost was the more appropriate method, including arguments involving access to or costs of equity capital. As stated in ASR No. 253, none of these were found to be convincing. The Commission concluded that the most significant information to be reported to investors by oil and gas producers concerns quantities and valuations of proved oil and gas reserves and success in discovering such reserves.

The Commission considers the consistent application of accounting principles by individual registrants from year to year to be very important to investors. Furthermore, under generally accepted accounting principles, a change in accounting principle is prohibited unless it can be demonstrated that the change is to a preferable method. Since the Commission found in ASR No. 253 that neither successful efforts nor full cost is clearly preferable to the other, it believes that subsequent changes by registrants from one of the specified methods to the other would not be in the interests of investors.

Commission Action: 17 CFR Part 211 is amended by adding the following subject heading: "Accounting Changes by Oil and Gas Producers."

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

FEBRUARY 23, 1979.

[FR Doc. 79-6764 Filed 3-5-79; 8:45 am]

[1505-01-M]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

[Regulation No. 10]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV

Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act of 1977

Correction

In FR Doc. 79-5055 appearing at page 10057 in the issue for Friday, February 16, 1979, in § 410.704(f)(2) appearing on page 10058, in the last line of the first column, ". . . 20 CFR Part 717." should have read ". . . 20 CFR Part 727."

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 78N-104]

PART 7—ENFORCEMENT POLICY

Presentation of Views Before Report of Criminal Violation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration revises the regulations for issuing, before the agency reports a criminal violation to a United States attorney for prosecution, a notice of an opportunity to present views. This document also revises the hearing procedures themselves. The agency is taking this action to clarify and simplify hearing procedures.

EFFECTIVE DATE: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Schwemer, Special Assistant to the Associate Commissioner for Regulatory Affairs (HFC-3), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4110.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 12, 1978 (43 FR 20508), the Commissioner of Food and Drugs proposed to revise the regulations governing procedures under section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) concerning the report of a criminal violation to a United States attorney for prosecution. The proposed revisions were designed to (1) delineate those situations in which a referral need not be preceded by an opportunity to present views, (2) simplify the procedures to resemble more closely the informal conferences customarily held with potential defendants, and (3) delete the phrase "informal hearing" from the regulations

Interested persons were given until June 12, 1978 to submit written comments regarding the proposal. Comments were submitted by two drug trade associations, one public interest law firm, and one food product manufacturer. The following are the comments and the Commissioner's responses to them:

1. One comment on proposed §7.84(a)(2) (21 CFR 7.84(a)(2)) noted that the Commissioner provided no historical justification for proposing that no notice and opportunity to present views need be given if a potential defendant might flee or destroy evidence. The comment suggested, therefore, that the Commissioner's concern was merely hypothetical and thus did not support the issuance of the proposed regulations.

These two forms of evasion of criminal process are common and they are potential problems in the enforcement of the Federal Food, Drug, and Cosmetic Act. Because FDA has neither complete records inspection authority nor subpoena power, a section 305 notice can be an invitation to destroy evidence without substantial risk. For this reason, it is difficult for the Commissioner to document that evidence never known to exist has been destroyed. The Commissioner is, however, aware of two individuals who fled the United States while FDA was contemplating criminal actions.

2. Another comment on proposed §7.84(a)(2) argued that the existing standard—"compelling circumstances"—provides sufficient flexibility and that the proposed revision lacks guidelines for determining when circumstances such as destruction of evidence in fact exist.

It was the very purpose of the proposal to define, with greater particularity, those circumstances in which the Commissioner believes there is reason not to issue a section 305 notice, particularly those circumstances which the Commissioner believes are "compelling." The comment's view is self-defeating. It supports the current regulation because that regulation is flexible, yet it criticizes the proposed regulation because there are no guidelines (i.e., because it is too flexible). The Commissioner concludes that the proposal adds specificity while still being consistent with effective law enforcement. The comment is rejected.

3. Two comments on proposed §7.84(a)(3), which provides for transmitting evidence to a United States attorney for a Department of Justice (i.e., grand jury) investigation without a prior opportunity to present views, asserted that the proposal would lengthen the time until disposition, thus increasing the period of uncertainty for those under investigation.

The Commissioner points out that, to the contrary, the proposal should decrease the time between initial investigation by FDA and a decision by a United States attorney as to whether to file a criminal indictment or information. Under current procedures, a section 305 notice will be prepared and issued and, if requested, an informal "hearing" held, even though the grand jury process appears necessary to complete the investigation. The 305 process can be expected to delay a subsequent transmission to a United States attorney by from 2 to 4 months. Therefore, the comment is rejected.

4. One comment argued that the direct reference for grand jury investigation under proposed §7.84(a)(3) constitutes an improper delegation of FDA's primary responsibility to review technical and scientific questions bearing on the enforcement of the act.

The Commissioner notes that, in *United States* v. *Dotterweich*, 320 U.S. 277 (1943), the Supreme Court recognized that the independent grand jury process may be necessary and proper in an FDA matter. Of course, FDA has no intention of waiving or delegating its duty to enforce the law. It is anticipated that substantial preliminary investigation and evaluation will be undertaken by the agency before a decision to refer a matter for further grand jury procedures. However, the Commissioner rejects the argument that FDA is precluded from referring for submission to a grand jury evidence of apparent criminal violations involving matters within the agency's jurisdiction.

5. Another comment on proposed §7.84(a)(3) took exception to FDA's view that a recommendation for "further investigation" by the grand jury did not constitute the reporting of a violation for "prosecution" within the meaning of section 305 of the act. The comment argued that this proposal frustrates the intent of section 305.

As noted in the preamble to the proposal, the Supreme Court already has answered the comment's argument (see *United States* v. *Dotterweich*, 320 U.S. 277 (1943); see also *United States* v. *Andreadis*, 234 F. Supp. 341 (E.D. N.Y., 1964), *United States* v. *Durbin*, 373 F. Supp. 1136 (E.D. Okla., 1974), *United States* v. *Hunter Pharmacy, Inc.*, 213 F. Supp. 323 (S.D. N.Y., 1963)).

6. The same comment noted that section 167 of the Drug Regulation Reform Act of 1978 recently proposed by the Department of Health, Education, and Welfare (HEW) would amend what is now section 305 of the act in a manner consistent with §7.84(a)(3) as proposed and argued that FDA was attempting to achieve by regulation something that it recognizes must be achieved by statute.

The Commissioner maintains that it is entirely proper for HEW to propose statutory codification of proposed or existing interpretation of the current statutory provisions (see *Warner-Lambert Co.* v. *F.T.C.* 562 F. 2d 749 (C.A. D.C. 1977)). Many provisions of the Drug Reform Bill adopt current FDA policy and/or regulations.

7. One comment on proposed §7.84(a)(3) argued that extending the opportunity to present views before requesting grand jury investigation would, in many cases eliminate the need for a grand jury proceeding, thus promoting basic fairness to potential defendants by providing an opportunity to resolve problems before the grand jury process.

The grand jury process will be necessary to supplement the facts that have been determined by FDA's own investigative authority, and to identify additional individuals who may be responsible for violative conduct (and thus to whom a notice cannot be issued because their identity is unknown). Therefore, the Commissioner does not believe that in a significant number of cases a prior section 305 proceeding will demonstrate that further inquiry by a grand jury is unnecessary. The Commissioner believes

that the basic rights of potential defendants are protected by the secrecy of the grand jury process and by the opportunity to present views to United States attorneys and their assistants.

8. One comment argued that referral of a matter to a grand jury may be contrary to public policy, which favors avoiding needless expenditures of Federal funds.

The Commissioner agrees that needless expenditures of both money and personnel should be avoided whenever they can be. However, in cases in which a matter is referred to a grand jury for further investigation, expedition will be served. Although a section 305 proceeding may be informal and preliminary, it nevertheless can be time consuming and can require the expenditure of measurable agency resources. A central purpose of this final rule is to eliminate unproductive public expenditures of resources for section 305 hearings that in most instances serve no useful purpose.

9. One comment argued that proposed § 7.84(c) would create undue uncertainty by requiring an opportunity to present views in connection with violations of the Federal Food, Drug, and Cosmetic Act, but providing discretion with respect to such an opportunity if other statutes administered by the agency are involved.

The Commissioner notes that § 7.84(b) and (c), when read together, were designed to eliminate the uncertainty referred to by the comment. The Federal Food, Drug, and Cosmetic Act is the only statute enforced by FDA that provides for an opportunity for presentation of views before a recommendation to a United States attorney for prosecution. There is no statutory requirement to provide such a notice if a violation of another statute is involved. Accordingly, the proposed regulation, in § 7.84(b), states that a notice is not required if the statute that appears to have been violated does not provide for such a notice. Nevertheless, under proposed § 7.84(c), the Commissioner will give notice if a violation of the Federal Food, Drug, and Cosmetic Act also involves a violation of another Federal statute, even though the other statute contains no notice requirement. The purpose of this provision is to advise a potential defendant of the extent and scope of violations that FDA is considering recommending for prosecution. With knowledge that the conduct at issue is suspected of violating other Federal statutes and that such apparent violations may be brought to the attention of a United States attorney, the respondent can present evidence and arguments that address the elements of proof under those laws. Although this notice provision acknowledges some uncertainty about the breadth of the prosecution recommendation that may ultimately be made, the uncertainty is clearly outweighed by the value of the increased notice to the potential defendant.

10. One comment objected to the exceptions in § 7.84 of both the current regulations and the proposed revisions. The comment noted, however, that the courts have held that section 305 of the act is directory, not mandatory, and that "case law appears to support the proposed regulation's discretion." The comment objected to the lack of objective standards in the exercise of this discretion, alleging that such discretion invites arbitrary and capricious decisions and denial of equal protection. The comment argued that the Commissioner would not have to justify decisions to avoid opportunities for presentation of views.

The Commissioner notes that the proposed regulations are designed to, and do, prescribe criteria for determining whether section 305 procedures are required. These criteria set boundaries for the exercise of discretion. Not all exercise of discretion is arbitrary, and FDA's interpretation and implementation of its statutory authority is to be afforded great weight (see *United States* v. *Udall,* 365 U.S. 1 (1965)). Offenders will be "treated differently for similar offenses" only if their behavior provides a reason to believe they acted differently (e.g., by destroying evidence). A written record of the Commissioner's reason to "bypass" the section 305 procedures under proposed § 7.84 will be made and will be reviewed by FDA's chief counsel. This record will provide a basis for any subsequent judicial challenge to the propriety of the decision.

11. One comment argued that the procedural changes in proposed § 7.85 (21 CFR 7.85 were substantial enough to require discussion in greater detail in the preamble of the proposal. The comment argued that the proposal was inadequate and inconsistent with § 10.40(b)(1) (21 CFR 10.40(b)(1)), which provides that a notice of proposed rulemaking contain a preamble that summarizes the proposal and the facts and policy underlying it. The comment suggested that the proposal be withdrawn and reissued with an explanatory note.

The purpose of the proposed revisions to § 7.85 was stated in the initial information paragraph of the preamble—to "simplify the procedures to more closely resemble conferences customarily held with potential defendants." The Commissioner further summarized the revisions by noting that the proposed procedural revisions were "intended to preserve the informal character" of the section 305 proceeding because these nonadversary proceedings, affording "wide latitude to explain voluntarily why a criminal prosecution should not be recommended,* * * have served their purpose well." The Commissioner believes that these comments, though brief, were sufficient to advise any interested party of the reasons for the proposed revisions. The Commissioner also notes that the proposed revisions to § 7.85 are not complicated and the regulation is neither lengthy nor encumbered with technical or scientific terminology. In these circumstances, the Commissioner believes that notice was adequate and that all interested persons were given the opportunity to submit meaningful comments on the proposed changes.

12. One comment objected to the proposed revision to § 7.85(a) which deleted the provision that an FDA employee's attendance at a section 305 presentation be stated for the record. The comment argued that "fundamental fairness" dictates that a potential defendant know the identity and reason for each person's attendance at a section 305 proceeding.

The Commissioner points out that the proposed revision does not prevent a respondent from determining the identity of any FDA employee who may be present. The only change in the current regulation is deletion of the requirement that the purpose of each FDA employee's attendance be stated on the record. FDA employees will be present only in their official capacity, which may include training. The Commissioner agrees that potential defendants should know the identity of all persons at a conference to present views, but finds that a "statement for the record" of their identity is unnecessary.

13. One comment objected to deleting from current § 7.85(b)(3) (proposed § 7.85(c)) the requirement that the presiding officer briefly review at the outset of the proceeding the basis on which criminal prosecution is contemplated. The comment noted that a summary of the violations would be contained in the section 305 notice but suggested that a respondent also "be provided with the facts relied on" by FDA.

As both the current and the proposed revised regulations make clear, the opportunity to present views belongs to the respondent. The rules of evidence do not apply. The agency is under no obligation to present evidence or witnesses. Neither the current regulations nor the proposed revisions provide for reciting the evidence known to FDA.

14. Another comment objected to proposed § 7.85(c) on the ground that it deprives a potential defendant of the right to confrontation. The comment argued that because the section 305 notice "invites" a respondent to

give incriminating information, a right of confrontation should exist.

This comment mischaracterizes the section 305 procedure. First, the section 305 notice identifies the products involved, the FDA sample number, if any, and the specific provisions of law that appear to have been violated. The notice also states that no reply is required and that if a response is made, the respondent may appear with or by counsel or other representative. For these reasons, the Commissioner believes a section 305 notice is not an invitation to self-incrimination. Moreover, in most cases, a potential respondent has already received, or may receive under the Freedom of Information Act, the FDA list of inspectional observations (FD Form 483) that frequently support the charges itemized in the section 305 notice. In addition, the agency position and its "evidence" have frequently been made known to a respondent through prior civil seizure or injunctive action or through a regulatory letter involving the same goods and/or conduct (see sections 304, 702(b), and 704(d) of the act (21 U.S.C. 334, 372(b), and 374(d))). However, the section 305 proceeding is not intended to be a substitute for a trial, and no right of confrontation exists at this stage. Current practice is for the presiding officer to explain the charges if the respondent asserts that he or she does not understand. This practice will continue under the final regulation.

15. One comment objected to the revision to current § 7.85(c) (proposed § 7.85(e)) deleting the automatic right of a respondent to have the section 305 presentation of views transcribed. Another comment objected on the ground that the absence of a right to a transcript created the potential for administrative abuse. The comment noted that information submitted or statements made by a respondent may be used against him or her at a later trial, and argued that a complete transcript, prepared at FDA's expense, should always be required.

The Commissioner notes that the standard practice at section 305 presentations for several years was the preparation of a written summary by the presiding officer. During recent years, there has been an increase in the number of transcriptions arranged by either FDA or respondents. The Commissioner agrees that the right of either party to have a section 305 presentation of views recorded and transcribed at its own expense should be retained. Accordingly, § 7.85(e) was modified to provide for transcription by either party. However, the Commissioner does not believe that the failure to have a transcript constitutes an abuse. A summary will always be prepared when the proceeding is not transcribed and, under proposed § 7.85(f) and (g), the summary will be given to all respondents, who will then have the opportunity to supplement it or make any correction. For these reasons, the Commissioner believes that the automatic transcription of section 305 presentations is unnecessary. The comment proposing automatic transcription at FDA's expense is therefore rejected.

16. One comment objected to the revision of current § 7.85(d) (proposed § 7.85(f)) eliminating the procedure in which a respondent remains after a presentation of views during the dictation of the summary in order to offer additional comments. The comment noted that this procedure has "worked well in the past and should be continued."

The Commissioner agrees that in most cases this procedure has worked well. However, because the summary is not intended to be a catalog of evidence or a piece of written advocacy, the stay-to-comment procedure has been misunderstood and has resulted in confusion. On more than a few occasions, it has resulted in a time-consuming and disruptive effort by respondents and their attorneys to alter the summary. However, both the current regulations and the proposed revisions in § 7.85(f) provide for a copy of the summary to be given to each respondent and, in § 7.85(g), specify that the respondent may comment on, and supplement, the summary dictated by the hearing officer.

17. One comment objected to the procedures in proposed § 7.85 (f) and (g) for supplementing a response to a section 305 notice. The current regulations provide for a reopening of a presentation of views if a respondent obtains new information. The comment asked that this procedure be retained and modified to permit a respondent to submit further information whether or not it was previously available, and that any new information be permitted to supplement the record. The comment also suggested that proposed § 7.85(g) be revised to allow a respondent to supplement his or her presentation at any time before a recommendation, rather than within 10 days after receipt of the copy of the summary or transcription of the presentation.

The Commissioner believes that the current regulation, which provides for both a reopened presentation and a period to supplement any section 305 response, is repetitive and unnecessary. The Commissioner accepts the suggestion to delete the requirement that the supplemental information be new or previously unavailable. Any supplementary information or argument will be accepted if timely. If a supplement is not timely, however, there is no guarantee that it will be considered. The Commissioner believes that this requirement is reasonable; therefore, the comments proposing an extended time for supplementation are rejected.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 7 is amended as follows:

1. In § 7.3, by revising paragraphs (b) and (c) and by deleting and reserving paragraph (e) as follows:

§ 7.3 Definitions.

* * * * *

(b) "Citation" or "cite" means a document and any attachments thereto that provide notice to a person against whom criminal prosecution is contemplated of the opportunity to present views to the agency regarding an alleged violation.

(c) "Respondent" means a person named in a notice who presents views concerning an alleged violation either in person, by designated representative, or in writing.

* * * * *

(e) [Reserved]

* * * * *

2. By revising §§ 7.84, 7.85, and 7.87 to read as follows:

§ 7.84 Opportunity for presentation of views before report of criminal violation.

(a)(1) Except as provided in paragraph (a) (2) and (3) of this section, a person against whom criminal prosecution under the Federal Food, Drug, and Cosmetic Act is contemplated by the Commissioner of Food and Drugs shall be given appropriate notice and an opportunity to present information and views to show cause why criminal prosecution should not be recommended to a United States attorney.

(2) Notice and opportunity need not be provided if the Commissioner has reason to believe that they may result in the alteration or destruction of evidence or in the prospective defendant's fleeing to avoid prosecution.

(3) Notice and opportunity need not be provided if the Commissioner contemplates recommending further investigation by the Department of Justice.

(b) If a statute enforced by the Commissioner does not contain a provision for an opportunity to present views, the Commissioner need not, but may in the Commissioner's discretion, provide notice and an opportunity to present views.

(c) If an apparent violation of the Federal Food, Drug, and Cosmetic Act

also constitutes a violation of any other Federal statute(s), and the Commissioner contemplates recommending prosecution under such other statute(s) as well, the notice of opportunity to present views will include all violations.

(d) Notice of an opportunity to present views may be by letter, standard form, or other document(s) identifying the products and/or conduct alleged to violate the law. The notice shall—

(1) Be sent by registered or certified mail, telegram, telex, personal delivery, or any other appropriate mode of written communication;

(2) Specify the time and place where those named may present their views;

(3) Summarize the violations that constitute the basis of the contemplated prosecution;

(4) Describe the purpose and procedure of the presentation; and

(5) Furnish a form on which the legal status of any person named in the notice may be designated.

(e) If more than one person is named in a notice, a separate opportunity for presentation of views shall be scheduled on request. Otherwise, the time and place specified in a notice may be changed only upon a showing of reasonable grounds. A request for any change shall be addressed to the Food and Drug Administration office that issued the notice and shall be received in that office at least 3 working days before the date set in the notice.

(f) A person who has received a notice is under no legal obligation to appear or answer in any manner. A person choosing to respond may appear personally, with or without a representative, or may designate a representative to appear for him or her. Alternatively, a person may respond in writing. If a person elects not to respond on or before the time scheduled, the Commissioner will, without further notice, decide whether to recommend criminal prosecution to a United States attorney on the basis of the information available.

(g) If a respondent chooses to appear solely by designated representative, that representative shall present a signed statement of authorization. If a representative appears for more than one respondent, the representative shall submit independent documentation of authority to act for each respondent. If a representative appears without written authorization, the opportunity to present views with respect to that respondent may be provided at that time only if the authenticity of the representative's authority is first verified by telephone or other appropriate means.

§ 7.85 Conduct of a presentation of views before report of criminal violation.

(a) The presentation of views shall be heard by a designated Food and Drug Administration employee. Other Food and Drug Administration employees may be present.

(b) A presentation of views shall not be open to the public. The agency employee designated to receive views will permit participation of other persons only if they appear with the respondent or the respondent's designated representative, and at the request of, and on behalf of, the respondent.

(c) A respondent may present any information of any kind bearing on the Commissioner's determination to recommend prosecution. Information may include statements of persons appearing on the respondent's behalf, letters, documents, laboratory analyses, if applicable, or other relevant information or arguments. The opportunity to present views shall be informal. The rules of evidence shall not apply. Any information given by a respondent, including statements by the respondent, shall become part of the agency's records concerning the matter and may be used for any official purpose. The Food and Drug Administration is under no obligation to present evidence or witnesses.

(d) If the respondent holds a "guaranty or undertaking" as described in section 303(c) of the act (21 U.S.C. 333(c)) that is applicable to the notice, that document, or a verified copy of it, may be presented by the respondent.

(e) A respondent may have an oral presentation recorded and transcribed at his or her expense, in which case a copy of the transcription shall be furnished to the Food and Drug Administration office from which the notice issued. The employee designated to receive views may order a presentation of views recorded and transcribed at agency expense, in which case a copy of such transcription shall be provided to each respondent.

(f) If an oral presentation is not recorded and transcribed, the agency employee designated to receive views shall dictate a written summary of the presentation. A copy of the summary shall be provided to each respondent.

(g) A respondent may comment on the summary or may supplement any response by additional written or documentary evidence. Any comment or addition shall be furnished to the Food and Drug Administration office where the respondent's views were presented. If materials are submitted within 10 calender days after receipt of the copy of the summary or transcription of the presentation, as applicable, they will be considered before a final decision as to whether or not to recommend prosecution. Any materials received after the supplemental response period generally will be considered only if the final agency decision has not yet been made.

(h)(1) When consideration of a criminal prosecution recommendation involving the same violations is closed by the Commissioner with respect to all persons named in the notice, the Commissioner will so notify each person in writing.

(2) When it is determined that a person named in a notice will not be included in the Commissioner's recommendation for criminal prosecution, the Commissioner will so notify that person, if and when the Commissioner concludes that notification will not prejudice the prosecution of any other person.

(3) When a United States attorney informs the agency that no persons recommended will be prosecuted, the Commissioner will so notify each person in writing, unless the United States attorney has already done so.

(4) When a United States attorney informs the agency of intent to prosecute some, but not all, persons who had been provided an opportunity to present views and were subsequently named in the Commissioner's recommendation for criminal prosecution, the Commissioner, after being advised by the United States attorney that the notification will not prejudice the prosecution of any other person, will so notify those persons eliminated from further consideration, unless the United States attorney has already done so.

§ 7.87 Records related to opportunities for presentation of views conducted before report of criminal violation.

(a) Records related to a section 305 opportunity for presentation of views constitute investigatory records for law enforcement purposes and may include inter- and intra-agency memorandums.

(1) Notwithstanding the rule established in § 20.21 of this chapter, no record related to a section 305 presentation is available for public disclosure until consideration of criminal prosecution has been closed in accordance with paragraph (b) of this section, except as provided in § 20.82 of this chapter. Only very rarely and only under circumstances that demonstrate a compelling public interest will the Commissioner exercise, in accordance

with § 20.82 of this chapter, the authorized discretion to disclose records related to a section 305 presentation before the consideration of criminal prosecution is closed.

(2) After consideration of criminal prosecution is closed, the records are available for public disclosure in response to a request under the Freedom of Information Act, except to the extent that the exemptions from disclosure in Subpart D of Part 20 of this chapter are applicable. No statements obtained through promises of confidentiality shall be available for public disclosure.

(b) Consideration of criminal prosecution based on a particular section 305 notice of opportunity for presentation of views shall be deemed to be closed within the meaning of this section and § 7.85 when a final decision has been made not to recommend criminal prosecution to a United States attorney based on charges set forth in the notice and considered at the presentation, or when such a recommendation has been finally refused by the United States attorney, or when criminal prosecution has been instituted and the matter and all related appeals have been concluded, or when the statute of limitations has run.

(c) Before disclosure of any record specifically reflecting consideration of a possible recommendation for criminal prosecution of any individual, all names and other information that would identify an individual whose prosecution was considered but not recommended, or who was not prosecuted, shall be deleted, unless the Commissioner concludes that there is a compelling public interest in the disclosure of the names.

(d) Names and other information that would identify a Food and Drug Administration employee shall be deleted from records related to a section 305 presentation of views before public disclosure only under § 20.32 of this chapter.

Effective date. This regulation is effective March 6, 1979.

(Secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 371(a)).)

Dated: February 27, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6693 Filed 3-5-79; 8:45 am]

[4110-03-M]

[Docket No. 76N-0366]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Provisional Listing of Lead Acetate; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency on its own initiative is postponing the closing date for the provisional listing of lead acetate for use as a component of hair colors (44 FR 45). The new closing date will be September 1, 1979. This brief postponement will provide time for FDA to evaluate the comments on a proposed rule published elsewhere in this issue of the FEDERAL REGISTER that would extend the provisional listing for a further period.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: The current closing date of March 1, 1979 for the provisional listing of lead acetate was established by a regulation published in the FEDERAL REGISTER of January 2, 1979 (44 FR 45). The regulation set forth below will postpone the March 1, 1979 closing date for the provisional listing of that color additive until September 1, 1979.

The postponement of the closing date for lead acetate until September 1, 1979 will provide a brief period within which the agency can evaluate comments and take final action on a proposal published elsewhere in this issue of the FEDERAL REGISTER. The proposal would extend the provisional listing until March 1, 1980. For the reasons stated in the proposal, the agency concludes that a brief extension of the closing date to September 1, 1979 is necessary and is consistent with the protection of the public health.

Because of the shortness of time until the March 1, 1979 closing date, the Food and Drug Administration (FDA) has concluded that notice and public procedure on this regulation are impracticable and that good cause exists for issuing this postponement as a final rule. This regulation, to be effective on March 1, 1979, will permit the uninterrupted use of the color additive until further action is taken. In accordance with 5 U.S.C. 553(b) and (d) (1) and (3), this regulation is issued as a final regulation and is being made effective on March 1, 1979.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for the entry "lead acetate" in paragraph (g) to read "September 1, 1979."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing of additives,* by revising the closing date for "lead acetate" in paragraph (b) to read "September 1, 1979."

Effective date. This regulation is effective March 1, 1979.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: February 28, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-6635 Filed 3-1-79; 1:52 pm]

[4110-03-M]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76N-0236]

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

Bottled Water

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing final revisions in the regulation for the quality standard of bottled water. The regulation has been amended in response to the National Interim Primary Drinking Water Regulations established by the Environmental Protection Agency (EPA). The regulation establishes maximum contaminant levels for several organic and inorganic substances and for radioactivity in bottled water.

EFFECTIVE DATE: July 1, 1979.

ADDRESS: Written objections or requests for a formal evidentiary hearing may be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 21, 1976 (41 FR 24896) and January 4, 1977 (42 FR 806), the Commissioner of Food and Drugs proposed to amend the quality standards for bottled water, § 103.35 (21 CFR 103.35) (formerly § 11.7), (21 CFR 11.7), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302), dealing with maximum chemical contamination levels and radioactivity, respectively. Interested persons were invited to submit comments on the proposals by August 20, 1976 and March 7, 1977, respectively. In these proposals, the Commissioner pointed out that under section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349), the Food and Drug Administration (FDA) is required, whenever EPA "prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act," to consult with EPA and within 180 days after EPA promulgates the drinking water regulations to "either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the FEDERAL REGISTER * * * reasons for not making such amendments."

The revisions of the quality standards for bottled water published by FDA on June 21, 1976, and January 4, 1977, were proposed in response to the National Interim Primary Drinking Water Regulations published by EPA in the FEDERAL REGISTER of December 24, 1975 (40 FR 59566) and July 9, 1976 (41 FR 28402).

Seven comments were received on the proposed revision of § 103.35. These comments were received from consumers, a physician, a Federal agency, a State health agency, and a scientific organization. Several of the comments included discussions on more than one aspect of the proposals.

1. One comment expressed general support for amending the quality standards for bottled water and stated that the quality of drinking water should be maintained beyond question.

2. One comment suggested that the proposed amendment did not place restrictions on enough compounds that are known to be toxic and that may contaminate water. The comment suggested that known or suspected carcinogenic, mutagenic, and teratogenic substances were thus being permitted in bottled water.

The Commissioner is aware that other compounds that may impose a health hazard and that are not listed in the quality standards can become contaminants in bottled water. However, this does not mean that they are permissible in the product. If bottled water products are adulterated with dangerous chemical, radiological, or microbiological contaminants for which no specific tolerance levels are established, FDA can act under authority of appropriate sections of the Federal Food, Drug, and Cosmetic Act to protect consumers.

The Public Health Service Drinking Water Standards were established in 1962. As EPA continues to review information accumulated since 1962, limits for additional chemicals and revisions of existing limits for toxic compounds will undoubtedly be established. As the drinking water standard is revised, the bottled water quality standard will be reviewed and revised as necessary to maintain consistency with EPA regulations.

3. One comment proposed that a "zero" tolerance level be established for those chemical substances for which maximum contaminant levels (MCL's) have been established.

The Commissioner rejects this suggestion because establishing zero tolerances for each of the possible chemical contaminants would be impractical and not scientifically justifiable. Arbitrarily invoking such action would, in most cases, impose an unjustifiable economic burden on the bottled water industry without providing substantial benefits for consumers. In addition, the concept of zero level contaminants is difficult to use because "zero" varies, depending upon the lowest level of measurement for which available analytical methods are reliable. The established MCL's are based on critical evaluations of the most current information available, and were fixed on the basis of safety. However, these levels may need revision as additional scientific data become available.

4. One comment received after the June 21, 1976 publication of the proposed quality standard amendments recommended that the July 9, 1976 EPA regulations on radionuclides in primary drinking water be incorporated into the final FDA regulation on bottled water.

The Commissioner indicated in the June 21, 1976 publication that when EPA establishes MCL's for radionuclides or other regulations for water quality, FDA would then review the quality standards for bottled water. The FDA did review the EPA regulations on radionuclides published on July 9, 1976, and subsequently proposed on January 4, 1977 to amend the quality standards by establishing MCL's for radioactivity in bottled water. The final regulation presented in this document incorporates the July 9, 1976 proposal dealing with radionuclides.

5. Two comments suggested that § 103.35(d)(1)(ii) be revised to include references to other appropriate methods, such as the American Society for Testing and Materials (ASTM) standards for the analysis of bottled water for chemical substances. These comments pointed out that EPA regulations did allow for use of other appropriate test procedures. One of these comments also included a recommendation that the regulation provide for an annual or biennial review of test methods.

The Commissioner wishes to clarify that the analytical procedures cited in the regulation are those that will be used by FDA to determine whether a lot of bottled water is in compliance with the standard. The regulation does not require manufacturers or their consultant laboratories to use these same procedures. The Commissioner advises that the manufacturers or consulting laboratories may use other methods of analysis that comply with the provisions of 21 CFR 129.35(a)(3)(ii) and 129.80(g)(3) and that produce results substantially equivalent to those obtained by methods referenced in this regulation.

The EPA established in 40 CFR Part 136 a list of approved test procedures for the analysis of pollutants in effluent discharges and set forth provisions for submitting applications for approval of alternative test procedures. Analytical requirements and provisions for utilizing alternative methods for determining contaminant levels in drinking water were set forth by EPA in 40 CFR Part 141. The Commissioner supports the decisions of EPA relative to the use of alternative test procedures, but believes it would be redundant for FDA to pursue a similar endeavor in this regulation for bottled water because EPA has already done so. Nor is it the intent of this regulation to provide for the periodic review of available test methods. Because EPA has the responsibility for approving alternative test methods for chemical analyses of water, it would be unnecessary for FDA to provide for a periodic review of those methods in this regulation.

6. One comment pointed out that the effective date of a final regulation for the bottled drinking water quality standard was inconsistent with the effective date established by EPA for

the National Interim Primary Drinking Water Regulations.

The sequence of events relative to EPA's publication of drinking water and radionuclide regulations and FDA's proposals to amend the quality standard for bottled drinking water has already been discussed in this preamble. The Commissioner is of the opinion that even though the two sets of regulations involve related basic principles, it is not critical to establish the same effective date for the bottled water quality standard as for municipal water system regulations.

The effective date of the EPA regulations was June 24, 1977, which, obviously, should not be the effective date for this final rule. The proposed effective dates of the bottled water quality standard amendments published in the FEDERAL REGISTER of June 21, 1976 and January 4, 1977 were 60 days after date of publication of the final rule in the FEDERAL REGISTER and December 31, 1977, respectively. In consideration of the time lapse between publication of the proposals and this final rule, the Commissioner believes that these effective dates should be extended to allow sufficient time for manufacturers of bottled water to comply with the provisions of this regulation. Therefore, the Commissioner has set July 1, 1979 as the effective date for this final rule. Until this date, the existing bottled water regulations are in effect.

7. One comment suggested that the word "shall" be changed to "should" in § 103.35(f) in the statement "Bottled water, the quality of which is below that prescribed by this section, shall be labeled with a statement of substandard quality * * *." The revision would change the regulation from a requirement to a recommendation that substandard bottled water be appropriately labeled.

The Commissioner rejects this suggestion. Manufacturers have demonstrated the capability to produce bottled water that complies with the provisions of the quality standard. To ensure that consumers are alerted to any defects that reduce the quality of the water, labeling as specified in § 103.35(f) must be mandatory. However, as indicated in § 103.5(d) (21 CFR 103.5(d)), the provision of the quality standard that permits substandard quality bottled water to be appropriately labeled and marketed does not supersede the manufacturer's obligation to comply with current good manufacturing practice regulations and with the requirements of section 402(a)(4) of the act (21 U.S.C. 342(a)(4)), which deems a food to be adulterated if it is prepared, packed, or held under insanitary conditions. Additionally, as specified in § 103.35(g) and in accordance with section 402(a)(1) of the act, bottled water shall be considered to be adulterated if it contains any poisonous or deleterious substance that may render it injurious to health.

8. One comment pointed out that the definition of bottled water in § 103.35(a), which excludes mineral water, is not consistent with the definition in § 129.3(b) (21 CFR 129.3(b)), which includes bottled mineral water.

The Commissioner advises that because § 103.35(a) is a quality standard regulation and § 129.3(b) is a good manufacturing practice regulation, the difference in the two bottled water definitions is intentional. Mineral water is excluded in the quality standard definition because it is inherently different from other bottled water products and cannot be regulated by the specifications established for the quality of other bottled water products. Mineral water is included in the current good manufacturing practice regulation definition of bottled water because the inherent differences between mineral water and other bottled water products do not preclude development of similar quality control procedures for manufacturing the products.

9. One comment stated that all references to the "Standard Methods for the Examination of Water and Wastewater" should be changed to cite the 14th Edition, 1975, instead of the 13th Edition, 1971.

The Commissioner agrees with this suggestion and has incorporated the appropriate revisions into this final rule. References to "Standard Methods" are made in § 103.35(b), (c), (d), and (e) of the bottled water quality standard. The revisions of paragraphs (d) and (e) to cite the 14th edition of "Standard Methods" were published in the proposal for this final rule. The revisions of paragraphs (b) and (c) to include the current reference were not previously proposed and are being made in this final rule. Because these revisions are editorial and not of a substantive nature, they do not require publication as a proposal for review and comment.

10. One comment requested an explanation of how to obtain an arithmetic mean for only one sample as specified in § 103.35(b)(2).

According to the definition in § 103.3(b) (21 CFR 103.3(b)), a sample consists of "10 subsamples (consumer units), taken one from each of 10 different randomly chosen shipping cases to be representative of a given lot * * *." As indicated in § 103.35(b)(2), "the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters." The arithmetic mean for the sample coliform density can be determined from the analytical results of the 10 subsamples that make up the sample.

11. One comment suggested that the tables in § 103.35(d)(2)(i) which establish allowable flouride levels for bottled water relative to air temperature should be revised to include annual average maximum daily air temperatures below 50.0° F and above 90.5° F.

"Statistical Abstract of the United States: 1976," 97th Ed., (U.S. Bureau of the Census, Washington, DC) indicates that for the period from 1941 to 1970 the annual average maximum temperature for some U.S. cities did fall below 50.0° F but did not exceed 90.5° F for any of the representative cities. Therefore, the temperature range of "50.0-53.7" has been changed to "53.7 and below" on Table 1 and Table 2, but the upper limit of 90.5° F remains unchanged. (A copy of the annual average maximum air temperature data from the "Statistical Abstract of the United States: 1976" is on file in the office of the Hearing Clerk).

12. One comment suggested that cross-reference should be made in Part 103—Quality Standards for Foods with No Identity Standards, to the current good manufacturing practice regulations in Part 129.

The Commissioner agrees with this suggestion and has revised § 103.5(d) to include this reference.

13. One comment pointed out that analytical procedures for radium-228 are not included in "Standard Methods for the Examination of Water and Wastewater," 14th Ed. 1975, which was cited as the source of methods that would be used to determine compliance with § 103.35(e)(1).

The Commissioner acknowledges the validity of this comment and advises that FDA currently uses "Interim Radiochemical Methodology for Drinking Water" (Environmental Monitoring and Support Laboratory, EPA-600/4-75-008, USEPA) to analyze for radium-228. Section 103.35(e)(2) is revised to include this method. (A copy of "Interim Radiochemical Methodology for Drinking Water" is on file in the office of the Hearing Clerk).

14. A request for a hearing was submitted in one letter of comment.

The Commissioner points out that when a proposal is issued to amend a regulation, opportunity is given for any interested person to submit comments. The final regulation is promulgated after all comments are carefully reviewed. Because the proposed amendment may be revised to reflect changes suggested in comments, a hearing on the proposal before publication of the final regulation is usually considered inappropriate. Following promulgation of the final rule, any interested person may submit a written request for a formal evidentiary hearing under § 12.22 (21 CFR 12.22).

After evaluating the comments received and other relevant materials, the Commissioner concludes that the regulation should be promulgated as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(h), 410, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 88 Stat. 1694 (21 U.S.C. 341, 343(h), 349, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 103 is amended as follows:

1. In § 103.5, by revising paragraph (d) to read as follows:

§ 103.5 General principles.

* * * * *

(d) The food characteristics included in a standard of quality published in this Part relate only to the quality of the food and not to compliance with any of the adulteration provisions of section 402 of the act. Compliance with a standard of quality promulgated under this Part does not excuse failure to observe either the requirement of section 402(a)(4) of the act that food may not be prepared, packed, or held under unsanitary conditions, or the provisions of Parts 110 and 129 of this chapter requiring that food manufacturers observe current good manufacturing practices. For example, evidence obtained through factory inspection showing such a violation renders the food unlawful, even though the food contains levels of microorganisms lower than those prescribed by an applicable standard.

* * * * *

2. In § 103.35, by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 103.35 Bottled water.

* * * * *

(b) *Microbiological quality.* Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975, American Public Health Association,[1] which is incorporated by reference, meet the following standards of microbiological quality:

(1) *Multiple-tube fermentation method.* Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have an MPN of 9.2 or more coliform organisms per 100 milliliters; or

(2) *Membrane filter method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

(c) *Physical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the method described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975,[1] which is incorporated by reference, meet the following standards of physical quality:

(1) The turbidity shall not exceed 5 units.

(2) The color shall not exceed 15 units.

(3) The odor shall not exceed threshold odor No. 3.

(d) *Chemical quality.* (1)(i) Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in paragraph (d)(1)(ii) of this section, meet standards of chemical quality and shall not contain chemical substances in excess of the following concentrations:

Substance.—*Concentration in milligrams per liter*	
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chloride	250.0
Chromium	0.05
Copper	1.0
Iron	0.3
Lead	0.05
Manganese	0.05
Mercury	0.002
Nitrate(N)	10.0
Phenols	0.001
Selenium	0.01
Silver	0.05
Sulfate	250.0
Total dissolved solids	500.0
Zinc	5.0
Organics:	
Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-1,4-endo,endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gama isomer)	0.004
Methoxychlor (1,1,1-trichloro-2,2-bis[*p*-methoxyphenyl] ethane	0.1
Toxaphene ($C_{10}H_{10}Cl_8$-technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-trichlorophenoxypropionic acid)	0.01

(ii) Analyses conducted to determine compliance with paragraph (d)(1)(i) of this section shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975,[1] or "Methods for Chemical Analysis of Water and Wastes," 1974,[2] both of which are incorporated by reference. Analyses for organic substances shall be determined by appropriate methods described in "Methods for Organochlorine Pesticides in Industrial Effluents,"[3] and "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents," November 28, 1973,[3] both of which are incorporated by reference.

(2)(i) Bottled water packaged in the United States to which no fluoride is added shall not contain fluoride in excess of the levels in Table 1 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

Table 1

Annual average of maximum daily air temperatures (° F)	Fluoride concentration in milligrams per liter
53.7 and below	2.4
53.8-58.3	2.2
58.4-63.8	2.0
63.9-70.6	1.8
70.7-79.2	1.6
79.3-90.5	1.4

(ii) Imported bottled water to which no fluoride is added shall not contain fluoride in excess of 1.4 milligrams per liter.

(iii) Bottled water packaged in the United States to which fluoride is added shall not contain fluoride in excess of levels in Table 2 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

Table 2

Annual average of maximum daily air temperatures (° F)	Fluoride concentration in milligrams per liter
53.7 and below	1.7
53.8-58.3	1.5
58.4-63.8	1.3
63.9-70.6	1.2
70.7-79.2	1.0
79.3-90.5	0.8

(iv) Imported bottled water to which fluoride is added shall not contain fluoride in excess of 0.8 milligram per liter.

(e) *Radiological quality.* (1) Bottled water shall, when a composite of analytical units of equal volume from a

[1] Copies are available from: American Public Health Association, 1015 18th St. NW., Washington, DC 20036.

[2] Copies are available from: Office of Technology Transfer, Environmental Protection Agency, Washington, DC 20460.

[3] Copies are available from: Methods Development Quality Assurance Research Laboratory, Environmental Protection Agency, Cincinnati, OH 45268.

sample is examined by the methods described in paragraph (e)(2) of this section, meet standards of radiological quality as follows:

(i) The bottled water shall not contain a combined radium-226 and radium-228 activity in excess of 5 picocuries per liter of water.

(ii) The bottled water shall not contain a gross alpha particle activity (including radium-226, but excluding radon and uranium) in excess of 15 picocuries per liter of water.

(iii) The bottled water shall not contain beta particle and photon radioactivity from manmade radionuclides in excess of that which would produce an annual dose equivalent to the total body or any internal organ of 4 millirems per year calculated on the basis of an intake of 2 liters of the water per day. If two or more beta or photon-emitting radionuclides are present, the sum of their annual dose equivalent to the total body or to any internal organ shall not exceed 4 millirems per year.

(2) Analyses conducted to determine compliance with paragraph(e)(1) of this section shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975,[1] and "Interim Radiochemical Methodology for Drinking Water," Environmental Monitoring and Support Laboratory, EPA-600/4-75-008 (Revised), March 1976, U.S. Environmental Protection Agency,[4] both of which are incorporated by reference.

* * * * *

Any person who will be adversely affected by this final rule may file written objections and may make a written request for a formal evidentiary hearing. Objections to the order and requests for a hearing shall on or before April 5, 1979 be submitted along with four copies to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Objections and requests for hearings should be identified with the docket number found in brackets in the heading of this rule and must be submitted in accordance with the procedure established in 21 CFR 12.22. Received objections and requests for hearings may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective Date. This regulation shall be effective July 1, 1979.

(Secs. 401, 403(h), 410, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 88 Stat. 1694 (21 U.S.C. 341, 343(h), 349, 371).)

[4] Copies are available from: National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151.

Dated: March 1, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

NOTE: Incorporations by reference were approved on July 8, 1976 and November 29, 1978, by the Director of the Office of the Federal Register and are on file at the Federal Register Library.

[FR Doc. 79-6639 Filed 3-5-79; 8:45 am]

[4110-03-M]

[Docket No. 75N-0298]

PART 129—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

Bottled Water Testing Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations governing the processing and bottling of drinking water in response to the National Interim Primary Drinking Water Regulations established by the Environmental Protection Agency (EPA). The revised regulations require that source water be examined regularly for chemical, radiological, and microbiological contaminants and that final product water be analyzed semiannually for chemical, physical, and radiological contaminants. This document also revokes a stay in the existing regulations that temporarily reduced the semiannual testing requirements.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Part 129 of the Code of Federal Regulations (21 CFR Part 129) is being amended in response to National Interim Primary Drinking Water Regulations established by EPA. The Commissioner of Food and Drugs is revising the definition of "approved source" for a manufacturer's product or operations water and is requiring that source water be examined at least once a year for chemical contaminants, at least once every 4 years for radiological contaminants and, if obtained from a source other than a municipal or public water system, at least once a week for microbiological contaminants. The Commissioner is also requiring that final product water be analyzed at least annually for chemical, physical, and radiological contaminants. The stay published in the FEDERAL REGISTER of November 4, 1975 (40 FR 51194) which temporarily reduced the semiannual testing requirements under §129.35(a)(3) (21 CFR 129.35(a)(3)) for water from approved sources is revoked.

In the FEDERAL REGISTER of June 21, 1976 (41 FR 24897) and January 4, 1977 (42 FR 807) the Commissioner issued proposed amendments to Part 129. (The proposal was issued under former Part 128d before the recodification under Part 129 published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302).) Interested persons were invited to submit comments on the proposals by August 20, 1976 and March 7, 1977, respectively.

The Commissioner pointed out that under section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349), FDA is required, whenever EPA "prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act," to consult with EPA and within 180 days after EPA promulgates the drinking water regulations to "either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the FEDERAL REGISTER * * * reasons for not making such amendments." The proposed revisions of the current good manufacturing practice regulations (CGMPR's) for bottled water published on June 21, 1976 and January 4, 1977, dealing with chemical contaminants and radioactivity, respectively, were in response to the National Interim Primary Drinking Water Regulations and the regulations on radionuclides published by the Environmental Protection Agency in the FEDERAL REGISTER of December 24, 1975 (41 FR 59566) and of July 9, 1976 (41 FR 28402).

Four comments were received on the proposed revision of Part 129 from consumers, industry, and a Federal agency. Two of the comments discussed more than one aspect of the proposed.

1. One comment expressed general support of regulations that encourage bottlers to find safer water sources and that require testing of bottled water.

2. One comment suggested that cross-reference should be made in Part 129 to the standard of quality for bottled water in §103.35 (21 CFR 103.35, formerly §11.7 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)).

The Commissioner agrees with this suggestion and has included this reference in revised §129.80(g) (21 CFR 129.80(g)).

3. One comment stated that in § 103.35 and Part 129 all references to the "Standard Methods for the Examination of Water and Wastewater" should be changed to cite the 14th edition, 1975, instead of the 13th edition, 1971.

The Commissioner agrees that such editorial changes should be made as necessary. The requested change has been made in § 103.35 by the final rule amending the quality standard for bottled water, which is published elsewhere in this issue of the FEDERAL REGISTER. However, because Part 129 does not reference standard methods, the requested revision is not applicable to that part.

4. One comment pointed out that the proposed effective dates for the final rule amending the CGMPR's for bottled drinking water were inconsistent with the effective dates established by EPA for the National Interim Primary Drinking Water Regulations.

The sequence of events concerning EPA's publication of drinking water and radionuclide regulations and the FDA proposals to amend the CGMPR's for bottled water was previously discussed in this preamble. The Commissioner believes that even though the two sets of regulations involve related basic principles, it is not critical to establish the same effective dates for bottled water CGMPR's as for regulations for municipal water systems.

The effective date of the EPA regulations was June 24, 1977. Obviously, this should not be the effective date for this final rule. The proposed effective dates of the bottled water CGMPR amendments published in June 1976 and January 1977 were August 20, 1976 and December 31, 1977, respectively. Because of the time lapse between publication of the proposals and this final rule, the Commissioner has extended these effective dates to allow sufficient time for manufacturers of bottled water to comply with this regulation. Therefore, the Commissioner has set July 1, 1979 as the effective date for this final regulation.

5. One comment said that the definition of bottled water in § 103.35(a), which excludes mineral water, is not consistent with the definition in § 129.3(b) (21 CFR 129.3(b)), which includes bottled mineral water.

The Commissioner advises that § 103.35(a) is a quality standard regulation and § 129.3(b) is a good manufacturing practice regulation. The difference in the two bottled water definitions is intentional. Mineral water is excluded in the quality standard definition because it is inherently different from other bottled water products and cannot be regulated by the specifications established for the quality of other bottled water products. Mineral water is included in the good manufacturing practice regulation definition of bottled water because the inherent differences between mineral water and other bottled water products do not preclude development of similar quality control procedures for manufacturing the products.

6. One comment suggested that the FDA CGMPR's should include provisions similar to those in EPA's primary drinking water regulation (40 CFR 141.21(d) (1), (2), (3) and (4)). These provisions establish criteria for performing check analysis when sampling results indicate excessive coliform counts.

As discussed in the preamble to the June 1976 CGMPR proposal, the sampling procedures established by EPA and FDA are necessarily different because EPA must be concerned with many different types and sizes of municipal water systems but FDA regulates a relatively uniform industry. The Commissioner concludes, therefore, that for the manufacture of bottled drinking water, the sampling procedures established in Part 129 are sufficient.

7. Two comments suggested that existing § 129.35(a)(3)(i) which states that "sampling and analysis shall be by qualified plant personnel * * *" should be revised to delete the word "plant."

The Commissioner agrees that the wording of this statement appears unnecessarily restrictive. However, § 129.35(a)(3)(iii) provides that competent commercial laboratories may perform the analyses. To clarify the intent of the regulation, the phrase "sampling and analysis shall be by qualified plant personnel" has been deleted from § 129.35(a)(3)(i) of this final rule.

8. One comment asserted that the proposed regulation which indicated that radiological assays could be performed by qualified plant personnel or by qualified commercial testing laboratories was inadequate because the analytical qualifications were not specified. The comment also suggested that measurements for radioactivity should be performed by laboratories approved or certified in accordance with 40 CFR 141.28 and that detection limits for these measurements should be those prescribed in 40 CFR 141.25(c).

The Commissioner agrees that these suggestions warrant consideration by any manufacturer of bottled water. However, the Commissioner contends that further statement of this position is unnecessary because §§ 129.35 (a)(3)(ii) and 129.80(g)(3) require that methods used must be recognized and approved by the government agency or agencies having jurisdiction. The detection limits of the methods for radiological assays are such that, to ensure that source water and finished product water comply with the standard of quality in § 103.35, bottled water manufacturers must rely on highly trained personnel using proper instrumentation.

9. One comment suggested that the requirement to analyze "at least annually a representative sample from a batch or segment of a continuous production run for radiological contaminants," should be sufficient without the additional requirement to examine the source water every 4 years for radionuclides.

The Commissioner does not agree with this comment. For any raw material, monitoring of source water is necessary to ensure that a high quality finished product can be attained. The proposal published June 21, 1976 stated that source water must be analyzed for radionuclides at least once a year. The Commissioner reviewed this requirement and published a revision to reduce the minimum testing for radioactivity in source water to once every 4 years. The Commissioner has again reviewed this aspect of quality control and concludes that the minimum testing of once every 4 years is necessary.

The EPA commented that proposed § 129.35(a)(3)(i) would require that source water obtained from other than public water systems be analyzed at least once each week for microbiological contaminants but the proposed regulation did not clearly require any additional testing. The Commissioner has, therefore, clarified § 129.35(a)(3)(i) in this final rule to require that all source water be analyzed at a minimum frequency of once each year for chemical contaminants and once every 4 years for radiological contaminants. Additionally, source water obtained from other than a public water system is to be sampled and analyzed for microbiological contaminants at least once each week.

Relative to the definition of "approved source," in § 129.3(a), EPA noted that it does not have jurisdiction over source water that is not a public water system. EPA suggested that source water from other than public water systems be required to meet the same conditions as community water systems. The Commissioner believes that it would be inappropriate to make the change suggested. The EPA standards for community water systems are subject to a detailed enforcement scheme and variances and exemptions (see 42 U.S.C. 300g-4, 300g-5). If FDA were to make the EPA standards directly applicable to bottled water and mineral water from private sources, FDA would have to es-

tablish an adequate system for considering exemptions and variances. FDA believes it is administratively simpler and adequate to continue to regulate the safety of mineral and bottled water directly on the basis of the general statutory standards in section 402 of the act (21 U.S.C. 342), as the law applies to particular cases. Moreover, bottled water, other than mineral water, must comply with the quality standards in 21 CFR Part 103, which include standards in addition to and exceeding the EPA standards for community water systems. Any bottled water not meeting the quality standards must be appropriately labeled.

In the FEDERAL REGISTER of November 4, 1975 (40 FR 51194), the Commissioner issued a stay of a portion of the sampling and testing requirements of the CGMPR for bottled water. The stay partially and temporarily rescinded the requirement under § 129.35(a)(3) to semiannually test water from approved sources. To maintain consistency with EPA's national interim primary drinking water regulations, the stay provided notice that testing of water from approved sources was required only once a year. This stay is hereby revoked. Sampling and analysis of water from approved sources must be performed at least once per year for chemical contaminants and every 4 years for radiological contaminants as established by this final regulation.

After evaluating the comments received and other relevant material, the Commissioner concludes that the regulation should be promulgated as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 409, 410, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785-1788 as amended, 88 Stat. 1694 (21 U.S.C. 342(a)(4), 348, 349, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 129 is amended as follows:

1. In Subpart A, § 129.3(a) is revised to read as follows:

§ 129.3 Definitions.

(a) "Approved source" when used in reference to a plant's product water or operations water means a source of water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality according to applicable laws and regulations of State and local government agencies having jurisdiction. The presence in the plant of current certificates or notifications of approval from the government agency or agencies having jurisdiction constitutes approval of the source and the water supply.

• • • • •

2. In Subpart B, § 129.35 is amended as follows:

a. The stay published in the FEDERAL REGISTER of November 4, 1975 (40 FR 51194), which reduced the semiannual testing in § 129.35(a)(3), is hereby revoked.

b. Section 129.35(a)(3)(i) is revised to read as follows:

§ 129.35 Sanitary facilities.

(a) * * *

• • • • •

(3) *Product water and operations water from approved sources.* (i) Samples of source water are to be taken and analyzed by the plant as often as necessary, but at a minimum frequency of once each year for chemical contaminants and once every 4 years for radiological contaminants. Additionally, source water obtained from other than public water system is to be sampled and analyzed for microbiological contaminants at least once each week. This sampling is in addition to any performed by government agencies having jurisdiction. Records of approval of the source water by government agencies having jurisdiction and of sampling and analyses for which the plant is responsible are to be maintained on file at the plant.

• • • • •

3. In Subpart E, in § 129.80, the introductory text of paragraph (g) and paragraph (g)(2) are revised to read as follows:

§ 129.80 Processes and controls.

• • • • •

(g) *Compliance procedures.* A quality standard for bottled drinking water, excluding mineral water, is established in § 103.35 of this chapter. To assure that the plant's production of bottled drinking water complies with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction, the plant will analyze product samples as follows:

• • • • •

(2) For chemical, physical, and radiological purposes, take and analyze at least annually a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample(s) consists of primary containers of product or unit packages of product.

• • • • •

Effective date. This regulation is effective July 1, 1979.

(Secs. 402(a)(4), 409, 410, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785-1788 as amended, 88 Stat. 1694 (21 U.S.C. 342(a)(4), 348, 349, 371(a)).)

Dated: March 1, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6638 Filed 3-5-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 5196]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Wilcox	Unincorporated areas	010327	Feb. 21, 1979, emergency.	June 16, 1978.
California	Shasta	Unincorporated areas	060358-A	do	Dec. 13, 1977.
Idaho	Idaho	Unincorporated areas	160213	Feb. 16, 1979, emergency.	
Kansas	Doniphan	White Cloud, city of	200086	Feb. 21, 1979, emergency.	Dec. 27, 1974.
New York	Hamilton	Benson, town of	316598-New	do	
Texas	Fannin	Trenton, city of	480814	do	Aug. 15, 1975.
Washington	Franklin	Mesa, town of	530252	Feb. 16, 1979, emergency.	Nov. 19,1976.
Vermont	Washington	Warren, town of	500121-B	Sept. 1, 1972, emergency. Sept. 1, 1977, regular, Sept. 15, 1977, suspended, Jan. 8, 1979, reinstated.	June 28, 1974 and Oct. 29, 1976.
Kansas	Cowley	Unincorporated areas	200563-A	Feb. 26, 1979, emergency.	July 19, 1977.
Do	Butler	Whitewater, city of	200559	Feb. 26, 1979, emergency.	Sept. 19, 1975.
Idaho	Nez Perce	Unincorporated areas	160101	Feb. 22, 1979, emergency.	Oct. 25, 1977.
Alabama	Tuscaloosa	Tuscaloosa, City of	010203-A	Feb.15, 1979, suspension withdrawn.	Oct. 24, 1975.
California	San Diego	National City, city of	060293-B	do	Mar. 22, 1974 and July 16, 1975.
Colorado	Boulder	Unincorporated areas	080023-A	do	Feb. 1, 1979.
Delaware	Sussex	Seaford, city of	100048-B	do	June 21, 1974.
Georgia	Rockdale	Unincorporated areas	130384-A	do	Apr. 16, 1976.
Florida	Palm Beach	Unincorporated areas	120192-A	do	June 17, 1970.
Do	Walton	Unincorporated areas	120317-A	do	Feb. 21, 1975.
Illinois	Douglas	Villa Grove, city of	170196-B	do	May 17, 1974.
Indiana	Dearborn	Aurora, city of	185172-A	do	Apr. 6, 1973.
Do	Jay	Portland, city of	185178-A	do	May 13, 1972.
Do	St. Joseph	Roseland, town of	185179-A	do	May 4, 1973.
Maryland	Worcester	Unincorporated areas	240083-A	do	Dec. 13, 1974.
Minnesota	Washington	Afton, city of	275226-A	do	Apr. 20, 1972.
Do	Dakota	Lilydale, city of	275241-A	do	Feb. 9, 1973.
Do	Nicollet	North Mankato, city of	275245-D	do	Apr. 28, 1972.
Missouri	Jackson and Clay	Independence city	290172-A	do	Apr. 12, 1974.
New Jersey	Monmouth	Asbury Park, city of	340285-B	do	July 13, 1974 and Apr. 30, 1976.
New York	Monroe	Chili, town of	360412-A	do	Feb. 1, 1979.
Do	Delaware and Broome	Deposit, village of	360043-B	Feb. 15, 1979, emergency, regular, suspension.	June 14, 1974 and Oct. 24, 1975.
Do	Cattaraugus	Ellicottville, village of	360070-B	do	May 24, 1974 and July 30, 1976.
Do	Westchester	Pleasantville, village of	360927-B	do	Apr. 12, 1974.
Do	do	Tuckahoe, village of	360934-B	do	May 10, 1974 and June 18, 1976.
Oklahoma	Pittsburg	McAlester, city of	400170-B	do	Feb. 15, 1974 and May 28, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Oregon	Grant	Unincorporated areas	410074-A	do	Oct. 18, 1974.
Pennsylvania	Northumberland	Ralpho, township of	421027-B	do	June 28, 1974 and June 4, 1976.
South Carolina	Lexington	West Columbia, city of	450140-C	do	June 28, 1974 and July 9, 1976.
South Dakota	Davison	Mitchell, city of	460021-B	do	Mar. 22, 1974 and Feb. 6, 1976.
Utah	Utah	Provo, city of	490159-B	do	Feb. 15, 1974 and June 4, 1976.
Do	Cumberland	Unincorporated areas	510043-A	do	Oct. 18, 1974.
Vermont	Lamoille	Johnson, town of	500063-B	do	June 21, 1974 and Jan. 23, 1977.
Do	do	Johnson, village of	500232-C	do	Apr. 5, 1974 and Nov. 26, 1976.
Do	Windsor	Woodstock, village of	500161-B	do	Sept. 13, 1974 and Dec. 10, 1976.
Wisconsin	Marathon	Unincorporated areas	550245-A	do	Feb. 1, 1979.
Do	Crawford	Ferryville, village of	555553-A	do	May 26, 1972 and Oct. 31, 1975.
Wyoming	Fremont	Unincorporated areas	560020-A	do	Feb. 1, 1979.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17084, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34, F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6318 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-5197]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unncessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Suspended Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of Flood Insurance in community	Hazard area identified	Date
California	Sacramento	Unincorporated areas	060262-A	Mar. 31, 1972, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Jan. 10, 1975	Mar. 15, 1979.
Illinois	DuPage	Addison, village of	170198-B	July 23, 1973, emergency, Mar. 15, 1979, regular, Mar. 15, 1979 suspended.	Oct. 26, 1973 Feb. 6, 1976	Do.
Do	Cook	Schaumburg, village of	170158-B	Oct. 13, 1972, emergency, Feb. 15, 1979, regular, Mar. 15, 1979, suspended.	Dec. 6, 1974 Oct. 24, 1975	Do.
Do	DuPage	Winfield, village of	170223-B	May 19, 1975, emergency, Feb. 15, 1979, regular, Mar. 15, 1979, suspended.	May 10, 1974 Oct. 17, 1975	Do.
Indiana	Hamilton	Fishers, town of	180423-A	Aug. 1, 1975, emergency, June 30, 1976, regular, Mar. 15, 1979, suspended.	June 30, 1976	Do.
Do	Lake	Griffith, town of	185175-B	Feb. 26, 1971, emergency, Apr. 14, 1972, regular, Mar. 15, 1979, suspended.	Apr. 18, 1972	Do.
Do	Floyd	New Albany, city of	180062-B	Oct. 1, 1971, emergency, Dec. 17, 1976, regular, Mar. 15, 1979, suspended.	Feb. 14, 1974 Jan. 30, 1976	Do.
Kansas	Douglas	Lecompton, city of	200091-B	July 2, 1975, emergency, Mar. 15, 1979, regular, March 15, 1979, suspended.	Jan. 23, 1974 June 4, 1976	Do
Minnesota	Anoka	Anoka, city of	275227-A	Feb. 11, 1972, emergency, Nov. 30, 1973, regular, Mar. 15, 1979, suspended.	Nov. 30, 1973	Do.
Do	Mower	Austin, city of	275228-A	Sept. 25, 1970, emergency, May 14, 1971, regular, Mar. 15, 1978, suspended.	May 14, 1971	Do.
Do	Wilkin	Breckenridge, city of	275232-A	Sept. 4, 1970, emergency, Mar. 26, 1971, regular, Mar. 15, 1979, suspended.	Sept. 2, 1970	Do.
Do	Blue Earth	Mankato, city of	275242-A	Oct. 23, 1970, emergency, Dec. 22, 1972, regular Mar. 15, 1979, suspended.	Dec. 22, 1972	Do.
New Jersey	Monmouth	Allenhurst, borough of	340283-B	Apr. 10, 1975, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Aug. 24, 1973 Apr. 30, 1976	Do.
Do	do	Avon-by-the Sea, borough of.	340287-B	Mar. 29, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Feb. 1, 1974	Do.
Do	do	Lock Arbour, village of	340306-B	June 27, 1973, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Nov. 30, 1973 Apr. 16, 1976	Do.
Ohio	Butler	Fairfield, city of	390038-B	Oct. 21, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Mar. 1, 1974 Dec. 27, 1974	Do.
Do	Warren	Lebanon, city of	390557-D	Dec. 23, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	May 10, 1974 July 23, 1976	Do.
Do	Mahoning	Unincorporated areas	390367-B	July 25, 1973, emergency, Feb. 15, 1979, regular, Mar. 15, 1979, suspended.	Dec. 20, 1974 Nov. 11, 1977	Do.
Oregon	Lincoln	Waldport, city of	410134-B	Nov. 1, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Mar. 22, 1974 Apr. 16, 1976	Do.
Pennsylvania	Bucks	Buckingham, township of	420985-B	Jan. 15, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	June 28, 1974 July 23, 1976	Do.
Do	Cumberland	Shippensburg, borough of	420368-A	Jan. 23, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Oct. 22, 1976	Do.
South Dakota	Minnehaha	Sioux Falls, city of	460060-B	Apr. 12, 1974, emergency, Jan. 17, 1979, regular, Mar. 15, 1979, suspended.	June 28, 1974	Do.
Tennessee	Hamilton	Red Bank, city of	470076-A	Nov. 7, 1973, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Mar. 15, 1979	Do.
Washington	Okanogan	Unincorporated areas	530117-A	Apr. 30, 1974, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	Mar. 15, 1979	Do.
Wisconsin	Grant	do	555557-A	Mar. 26, 1971, emergency, May 25, 1973, regular, Mar. 15, 1979, suspended.	May 25, 1973	Do.
Do	Crawford	Lynxville, village of	555563-A	Apr. 3, 1971, emergency, Mar. 16, 1973, regular, Mar. 15, 1979, suspended.	Mar. 16, 1973	Do.
Do	Ozaukee	Mequon, city of	555564-B	July 2, 1971, emergency, Nov. 3, 1972, regular, Mar. 15, 1979, suspended.	Mar. 15, 1979	Do.
Ohio	Warren	Mason, city of	390559-B	Apr. 15, 1975, emergency, Mar. 15, 1979, regular, Mar. 15, 1979, suspended.	June 14, 1974	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6396 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-5198]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase floor insurance at rates made reasonable through a Federal subsidy. In return communities agree to adopt and administer local flood plan management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Fresno	Clovis, City of	060044-C	Feb. 12, 1979, emergency.	Aug. 23, 1977 and May 16, 1978.
Montana	Fergus	Denton, Town of	300020	do	Dec. 27, 1974.
Nebraska	Lancaster	Unincorporated areas	310134-A	Feb. 16, 1979, emergency.	Feb. 23, 1978.
Texas	Willacy	San Perlita, city of	480667-A	do	Oct. 25, 1974 and June 18, 1976.
Illinois	Cook	Skokie, village of	171000-New	Feb. 14, 1979, emergency.	
Louisiana	DeSoto Parish	Grand Cane, village of	220291	Feb. 19, 1979, emergency.	May 2, 1975.
California	Los Angeles	Norwalk, city of	060652	Feb. 19, 1979, emergency. Feb. 19, 1979, regular.	Feb. 19, 1979.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6397 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4303]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Sanibel, Lee County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Sanibel, Lee County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Sanibel, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sanibel, are available for review at City Hall, 2075 Periwinkle Way, Sanibel, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Sanibel, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico.....	Intersection of Sanibel Captiva Road and Wulfert Road.	11
	Intersection of West Gulf Drive and East Rocks Drive.	12
	Intersection of Periwinkle Way and Tarpon Bay Road.	12
	Intersection of Dixie Beach Boulevard and Royal Poinciana Drive.	11
	Intersection of Casa Ybell Road and Camino Drive.	12
	Intersection of Periwinkle Way and Bally Road.	12
	Intersection of Gulf Drive and Anchor Drive.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6325 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4577]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of South Versailles, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of South Versailles, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of South Versailles, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of South Versailles, Allegheny County, Pennsylvania, are available for review at the South Versailles Municipal Building, Tourman Street, South Versailles, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of South Versailles, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River.	Downstream Corporate Limits.	752
	Eighth Street	755
	Third Street	755
	Upstream Corporate Limits.	758

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6326 Filed 3-5-79; 8:42 am]

[4210-01-M]

[Docket No. FI-4621]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Union, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Union, Union County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Union, Union County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Union, Union County, Pennsylvania, are available for review at the residence of Mr. Harold Bennett, Stein Lane, Winfield, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Union, Union County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	U.S. Route 11 Bridge	451
	Confluence of Winfield Creek.	456
Winfield Creek	U.S. Route 15	456
	Legislative Route 59047	456
	Township Route 356	501
	Farm Road No. 1 (2,320 feet upstream of Township Route 356).	513
	Farm Road No. 2 (5,325 feet upstream of Township Route 356).	537
	Farm Road No. 3 (8,450 feet upstream of Township Route 356).	558

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6327 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4578]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Wilmerding, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Wilmerding, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Wilmerding, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Wilmerding, Allegheny County, Pennsylvania, are available for review at the Borough of Wilmerding, Secretary's Office, Commerce and Station Streets, Wilmerding, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Wilmerding, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek.....	Upstream Corporate Limits.	748
	Wabco Bridge Upstream Side.	748
	Downstream Corporate Limits.	737

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6328 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4473]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Hamilton County, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Hamilton County, Tennessee. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Hamilton County, Tennessee.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Hamilton County, Tennessee, are available for review at the Hamilton County Courthouse, Chattanooga, Tennessee.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Hamilton County, Tennessee.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tennessee River	Downstream County Boundary.	649
	Confluence of Wolftever Creek.	686
	Confluence of Soddy Creek.	687
	Confluence of Sale Creek.	687
Possum Creek	Confluence of Tennessee River.	684
	McGill Road	701
	U.S. Highway 27 (Upstream).	708
	Southern Railway	732
	Back Valley Road	735
Sale Creek	Dougherty Road	689
	U.S. Route 27	695
	Old Dayton Pike	704
Rock Creek	Confluence with Sale Creek.	690
	U.S. Route 27 (Downstream).	720
	U.S. Route 27 (Upstream).	726
	Southern railway	742
	Slab Town Road	772
Wolftever Creek	Confluence with Tennessee River.	686
	Short Tail Springs Road	689
	Bell Mill Dam	718
	Hunter Road	744
	Interstate 75	747
	Ooltewah-Harrison Road.	755
	Tucker Road	785
Chestnut Creek	Downstream Corporate Limits.	811
	Bauxite Road	823
	East Brainerd Road	831
Lookout Creek	Dixie Highway	656
	Upstream Corporate Limits.	658
Wilkerson Branch.	Downstream Limits	817
North Chickamauga Creek.	Boy Scout Road	672
	Southern Railway	674

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6329 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3896]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Denton, Denton County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Denton, Denton County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Denton, Denton County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Denton, Denton County, Texas, are available for review at the Municipal Building, 215 East McKinney Street, Denton, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Denton, Denton County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cooper Creek	U.S. Route 380 (Upstream).	533
	Fishtrap Road (Upstream).	583
	Confluence of Cooper Creek Tributary A.	601
	Old Lee Street (Upstream).	604
	Nottingham Road (Upstream).	613
	Devonshire Road 900 feet upstream of Nottingham Road (Upstream).	618
	Devonshire Road 1,150 feet upstream of Nottingham Road (Upstream).	620
	Windsor Road (Upstream).	623
	Sherman Drive (Upstream).	637
	Stuart Road (Upstream)	640
	Confluence of Cooper Creek Tributary B.	648
	North Locust Street (Upstream).	659
Cooper Creek Tributary A.	Confluence with Cooper Creek.	601
	Broken Arrow Road (Upstream).	607
	Upstream Corporate Limits.	619
Cooper Creek Tributary B.	Confluence with Cooper Creek.	648
	Limit of Detailed Study.	651
Pecan Creek	Mayhill Road (Upstream).	571
	Loop 288 (Upstream)	578
	Confluence of Pecan Creek Tributary A.	583
	Confluence of Pecan Creek Tributary B.	592
	Woodrow Lane (Upstream).	599
	Wood Street (Upstream)	603
	Confluence of Pecan Creek Tributary C.	604
	Sycamore Street (Upstream).	606
	Hickory Street (Upstream).	611
	McKinney Street (Upstream).	612
	Frame Street (Upstream).	615
	Blount Street (Upstream).	621
	Confluence of North Pecan Creek.	622
	Austin Street (Upstream).	622
	North Locust Street (Upstream).	624
	North Elm Street (Upstream).	626
	Bolivar Street (Upstream).	627
	Parkway Street (Upstream).	628
	North Carroll Boulevard (Upstream).	631
	Congress Street (Upstream).	633
	Alice Street (Upstream).	635
	Linden Street (Upstream).	637

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Crescent Street (Upstream).	644
	Cordell Street (Upstream).	645
	Malone Street (Upstream).	649
	Georgetown Street (Upstream).	652
	Unnamed Dam 2,500 feet downstream from Bonnie Brae Street (Downstream).	661
	Unnamed Dam 2,500 feet downstream from Bonnie Brae Street (Upstream).	679
	Bonnie Brae Street (Upstream).	681
	Payne Drive (Upstream)	682
	Westgate Street (Upstream).	704
Pecan Creek Tributary A.	Confluence with Pecan Creek.	583
	Earthfill Dam 750 feet upstream of the confluence with Pecan Creek (Downstream).	585
	Earthfill Dam 750 feet upstream of the confluence of Pecan Creek (Upstream).	593
Pecan Creek Tributary B.	Confluence with Pecan Creek.	592
	Shady Oak Drive (Upstream).	608
	Spencer Road (Upstream).	613
Pecan Creek Tributary C.	Confluence with Pecan Creek.	604
	Prairie Street (Upstream).	604
	Bradshaw Street (Upstream).	608
	Lackey Street (Upstream).	612
	Maddox Street (Upstream).	620
	Skinner Street (Upstream).	621
	Industrial Road (Upstream).	624
	Wainwright Street (Upstream).	627
	South Locust Street (Upstream).	630
	South Elm Street (Upstream).	632
	East Prairie Street (Upstream).	633
	Stroud Street (Upstream).	635
North Pecan Creek.	Confluence with Pecan Creek.	622
	Oakland Street (Upstream).	623
	Austin Street (Upstream).	624
	North Locust Street (Upstream).	626
	North Elm Street (Upstream).	629
	Bolivar Street (Upstream).	631
	Anna Street (Upstream)	635
	Crescent Street (Upstream).	637
	Alice Street (Upstream).	648
	Sunset Street (Upstream).	648
	University Drive West (Upstream).	649
	Hinkle Drive (Upstream).	657
Dry Fork Hickory Creek.	Interstate Highway 35 (Upstream).	588
	Downstream Corporate Limits.	590
	Corporate Limits 5,300 feet downstream of Airport Road.	598
	Airport Road (Upstream).	614
	Confluence of Unnamed Tributary.	622
	Unnamed gravel road 6,900 feet upstream of Airport Road (Upstream).	624
	Upstream Corporate Limits.	635
Dry Fork Hickory Creek Tributary A.	Downstream Corporate Limits.	607
	Airport Road (Upstream).	630
	Channel Dam	646
Hickory Creek Tributary.	Atchison, Topeka, and Santa Fe Railway.	584
	Railroad Spur 3,175 feet downstream of Rose Lawn Street.	589
	Rose Lawn Street (Upstream).	619
	Confluence of Unnamed Tributary.	628

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6330 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4580]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Pownal, Bennington County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Pownal, Bennington County, Vermont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Pownal, Bennington County, Vermont.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Pownal, Bennington County, Vermont, are available for review at the Pownal Town Office, Pownal, Vermont.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Pownal, Bennington County, Vermont.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hoosic River	Upstream Corporate Limits.	563
	Confluence of Ladd Brook.	545
	Pownal Bridge (Upstream).	542
	Pownal Tannery Dam (Upstream).	529
	Pownal Tannery Dam (Downstream).	518
	Confluence of Potter Hollow Brook.	507
	Boston & Maine Railroad Bridge (Upstream).	499

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Downstream Corporate Limits.	494
Potter Hollow Brook.	State Route 346 Bridge (Upstream).	524
	Confluence with Hoosic River.	507
Ladd Brook	Boston & Maine Railroad Culvert.	555
	Private Drive 170 feet downstream from Boston 7 Maine Railroad Culvert (Upstream).	550

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6331 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4631]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Shoreham, Addison County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Shoreham, Addison County, Vermont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Shoreham, Addison County, Vermont.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Shoreham are available for review at the Town Office, Shoreham, Vermont.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Shoreham, Addison County, Vermont.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Champlain	From northern corporate limit to 2,400 feet south of northern corporate limit.	103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6332 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4137]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for Henry County, Va., Cancellation

AGENCY: Federal Insurance Administration, HUD.

ACTION: Cancellation of final rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 43 FR 45580 on October 3, 1978, the final flood elevation determination for Henry County, Virginia. This notice will serve as a cancellation of that publication. A new notice of final flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line (800) 424-8872.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: Februrary 23, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6333 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4417]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Herndon, Fairfax County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hern-

don, Fairfax County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Herndon, Fairfax County, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Herndon, Fairfax County, Virginia, are available for review at the Herndon Town Hall, Elden Street, Herndon, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Herndon, Fairfax County, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sugarland Run	Downstream Corporate Limits.	290
	Madison Street Extended.	314
	Elden Street	322
	Abandoned Railroad Grade (Downstream).	331
	Abandoned Railroad Grade (Upstream).	341
	Dulles Airport Access Road.	350
Folly Lick Branch	Downstream Corporate Limits.	297
	Young Avenue	312
	Confluence of Spring Branch.	317
	Abandoned Railroad Grade (Downstream).	346
Spring Branch	At Mouth	317
	Third Street	324
	Park Avenue (Downstream).	339
	Park Avenue (Upstream).	342
	Willow Street	349
	Abandoned Railroad Grade.	353

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6334 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4623]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Norfolk, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Norfolk, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Norfolk, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Norfolk, Virginia, are available for review at the Norfolk City Hall Building, Norfolk, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Norfolk, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chesapeake Bay and Hampton Roads.	Entire Reach	9
Willoughby Bay	Entire Reach	9
Little Creek	Shore Drive	9
	Cape View Avenue	9
Lake Whitehurst	Shore Drive	9
	Azalea Garden Road	9
Lake Taylor	Kempsville Road	9
Elizabeth River	Entire Reach	9
Eastern Branch of Elizabeth River.	Campostella Road	9
	Military Road	9
Broad Creek	Virginia Beach Boulevard.	9
Lafayette River	Hampton Boulevard	9
North Branch of Lafayette River.	Norfolk and Western Railroad.	9
Wayne Creek	Tidewater Drive	9
Smith Creek	Brambleton Avenue	9
Mason Creek	Granby Street	7
Oats Creek	Granby Street	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6335 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4624]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Warrenton, Fauquier County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Warrenton, Fauquier County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Warrenton, Fauquier County, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Warrenton, Fauquier County, Virginia, are available for review at the Engineer's Office, Municipal Building, Warrenton, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Warrenton, Fauquier County, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cemetery Run	State Route 211	409
	Private Road	498
	Garrett Street	512
	Moffet Street	536
Creek Run	Von Roijen Street	490
	Waterloo Road	497
White Mills Branch.	Alexandria Street	435
	Blackwell Road	469
	Winchester Street	502

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2030, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6336 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4418]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Forks, Clallum County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Forks, Clallum County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Forks, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Forks, are available for review at Town Hall, 1st Avenue Northeast, Forks, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Forks, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill Creek	Mill Creek Road	272
	Most Upstream Corporate Limits.	295
Ford Creek	9th Street Northeast	319

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	East Division Road—75 feet*.	335
Warner Creek.....	Confluence with Mill Creek..	273
	7th Avenue Southwest—40 feet*.	284
	5th Avenue Southwest (first crossing).	286
	5th Avenue Southwest (second crossing)—40 feet**.	288
	G Street Southwest—25 feet*.	291
	U.S. Highway 101.....	299

*Upstream.
**Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6337 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4556]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Kahlotus, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Kahlotus, Franklin County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Kahlotus, Franklin County, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Kahlotus, Franklin County, Washington, are available for review at the Kahlotus Town Hall, Kahlotus, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Kahlotus, Franklin County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kahlotus Creek.....	Downstream Corporate Limits (North Bank).	886
	Downstream Corporate Limits (South Bank).	889
	Spokane Avenue.....	892
	Union Pacific Railroad...	895
	Washington Route 260...	897
	Upstream Corporate Limits.	912

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6338 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4324]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Long Beach, Pacific County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Long Beach, Pacific County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Long Beach, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Long Beach, are available for review at the Town Hall, Long Beach, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Long Beach, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a

period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean	10th Street South-centerline of street 1500 feet west of its intersection with Ocean Beach Boulevard.	17
	1st Street-centerline of street 1900 feet west of its intersection with Beach Highway Route 103.	20
	5th Street North-centerline of street 850 feet west of its intersection with Ocean Beach Boulevard.	1*

*Depth.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6339 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4052]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the city of Tekoa, Whitman County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tekoa, Whitman County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Tekoa, Whitman County, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Tekoa, Whitman County, Washington, are available for review at the city hall, Tekoa, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Tekoa, Whitman County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hangman Creek	Union Pacific Railroad (at Upstream Corporate Limits).	2,489
	Union Pacific Railroad	2,488
	Elizabeth Street	2,487
	Confluence of Little Hangman Creek.	2,484
	Chicago, Milwaukee, St. Paul and Pacific Railroad.	2,484
	County Road 200	2,483
Little Hangman Creek.	Upstream Corporate Limits.	2,491
	Crosby Street	2,486
	Railroad Street	2,485

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6340 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4558]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the town of Belington, Barbour County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Belington, Barbour County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Belington, Barbour County, West Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Belington, Barbour County, West Virginia, are available for review at the Clerk's

Office, Belington City Hall, Belington, West Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Belington, Barbour County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill Creek	Corporate Limits	1,701
	Willow Street	1,701
	U. S. Highway 250	1,700
	Conrail	1,700
Tygart Valley River.	Corporate Limits (South).	1,707
	Corporate Limits (North).	1,697

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 79-6341 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4559]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the city of Hinton, Summers County, W.Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Hinton, Summers County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Hinton, Summers County, West Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Hinton, Summers County, West Virginia, are available for review at the Hinton City Hall, Hinton, West Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Hinton, Summers County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
New River	Upstream Corporate Limit.	1,378
	State Route 3 Downstream.	1,376
	State Route 20 Upstream.	1,366
	Downstream Corporate Limit.	1,342
Greenbrier River	State Route 13 Upstream.	1,392
	State Route 107 Downstream.	1,376

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6342 Filed 3-5-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4560]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Morgantown, Monongalia County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Morgantown, Monongalia County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Morgantown, Monongalia County, West Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Morgantown, Monongalia County, West Virginia, are available for review at the City Engineer's Office, Morgantown, West Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Morgantown, Monongalia County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongalia River	Downstream Corporate Limits.	810
	U. S. Route 19	813
	Upstream Corporate Limits.	820
Deckers Creek	Downstream Corporate Limits.	813
	Deckers Creek Road	813
	Monongalia County Route 64.	845
	Carnegie Street	861
	Upstream Corporate Limits.	879
Cobun Creek	Downstream Corporate Limits.	820
	U. S. Route 19	820
	Green Bag Road	901
	Upstream Corporate Limits.	909
Aaron Creek	Downstream Corporate Limits.	842
	Upstream Corporate Limits.	848
Knocking Run	Downstream Corporate Limits.	851
	Sturgis Road	864
	Dug Hill Road	865
	Monongalia County Route 68.	893

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6343 Filed 3-5-79; 8:45 am]

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Deletion of Unnecessary Regulations

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Final rule.

SUMMARY: This document removes provisions related to the operation and maintenance assessments on the Fort Hall and the Wapato Irrigation Projects. This action is necessary to reflect amendments providing the Officer-in-Charge with greater flexibility in the day-to-day operation of the Projects.

EFFECTIVE DATE: This action shall become effective April 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Jonathan P. Deason, Telephone (202) 343-4005.

SUPPLEMENTARY INFORMATION: In the June 14, 1977, FEDERAL REGISTER (42 FR 30362) there was published a notice of final rule on new general regulations governing the operation and maintenance of Indian irrigation projects. The revision consolidated the regulations for all Indian Irrigation Projects in a new Part 191 of Title 25 of the Code of Federal Regulations. The updated provisions provided for the Area Director to publish the annual operation and maintenance rates and related information by general notice document in the FEDERAL REGISTER, and as new rates are announced the corresponding sections in Part 221 of Title 25 of the Code of Federal Regulations would be deleted.

The latest notice of water charges and related information on the Fort Hall Irrigation Project was published in the January 31, 1979, FEDERAL REGISTER, (44 FR 6209); on the Wapato Irrigation Project in the February 1, 1979, FEDERAL REGISTER (44 FR 6521).

§§ 221.32-221.35 [Deleted]

Therefore, 25 CFR Part 221 is amended by deleting the following sections:

Fort Hall Indian Irrigation Project, Idaho—§§ 221.32, 221.33, 221.34, and 221.35.

§§ 221.1-221.5a [Deleted]

Ahtanum Indian Irrigation Project, Washington—§§ 221.1, 221.2, 221.3, 221.4, 221.5 and 221.5a.

§§ 221.73-221.76 [Deleted]

Toppenish-Simcoe Indian Irrigation Project, Yakima Indian Reservation, Washington—§§ 221.73, 221.74, 221.75, and 221.76.

§§ 221.86-221.94 [Deleted]

Wapato Indian Irrigation Project, Washington—§§ 221.86, 221.87, 221.88, 221.89, 221.90, 221.91, 221.92, 221.93 and 221.94.

VINCENT LITTLE,
Area Director.

FEBRUARY 22, 1979.

[FR Doc. 79-6685 Filed 3-5-79; 8:45 am]

[4310-02-M]

PART 221—OPERATION AND MAINTENANCE CHARGES

Deletion of Needless Regulations

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Final rule.

SUMMARY: This document removes provisions relating to the operation and maintenance charges on the Klamath Irrigation Project, Modoc Point Unit, Oregon. The amendment is necessary to remove regulations which are no longer in effect since transfer of the Federal irrigation facilities to the Modoc Point Irrigation District.

EFFECTIVE DATE: This action shall be effective April 5, 1979.

FOR FUTHER INFORMATION CONTACT:

Jonathan P. Deason, Department of Interior, Washington, D.C. 20245, Telephone (202) 343-4005.

SUPPLEMENTARY IFORMATION: The Klamath Termination Act of August 13, 1954 (68 Stat. 718), as amended, provided for the transfer to the Modoc Point Irrigation District all right, title and interest of the United States in the irrigation works, facilities and equipment of the Modoc Point Unit of the Klamath Irrigation Project. Cancellation of past irrigation charges against the Modoc Point Unit was approved in the Act of August 10, 1972 (86) Stat. 531). The transfer of property was accomplished by an acceptance agreement signed March 19, 1974.

§§ 221.47, 221.48 [Deleted]

Therefore, regulations relative to the Modoc Point Unit in Part 221 of the Code of Federal Regulations are no longer effective and the following sections are deleted:

Klamath Indian Irrigation Project, Oregon—§§ 221.47 and 221.48.

VINCENT LITTLE,
Area Director.

FEBRUARY 22, 1979.

[FR Doc. 79-6686 Filed 3-5-79; 8:45 am]

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Restricted Area, St. Johns River, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final Rule.

SUMMARY: This document establishes a restricted area in the waters adjacent to the U.S. Navy Fuel Depot Pier in the St. Johns River, Jacksonville, Florida. The restricted area is necessary to provide adequate safety and security for the fuel depot.

DATE: Effective March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard at (202) 693-5070, or write: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Forrestal Building, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the Department of the Army is establishing a restricted area as set forth below. A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on November 15, 1978 (43 FR 53045) with the comment period ending on December 19, 1978. No comments were received.

§ 207.167 U.S. Navy Fuel Depot Pier, St. Johns River, Jacksonville, Florida; restricted area.

a. The area is described as:

(1) A line running at 238.5° true and paralleling the pier at 100 feet is extended from the eastern edge of the mooring platform #59 to the western edge of platform #65. From these points the boundaries are extended to the shoreline along lines running at 328.5°.

(2) The easterly waterward coordinate being:

30°23'58.0" N 81°37'15.0" W

(3) The westerly waterward coordinate being:

30°23'53.0" N 81°37'24.4" W

b. The Regulations:

(1) The use of waters as previously described by private and/or commercial floating craft is prohibited with the exception of vessels that have been specifically authorized to do so by the Officer in Charge of the Navy Fuel Depot.

(2) This regulation shall be enforced by the Officer in Charge, U.S. Navy Fuel Depot, Jacksonville, Florida.

(40 Stat. 266; 33 U.S.C. 1.)

NOTE: The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order No. 11821 and OMB Circular A-107.

Dated: February 12, 1979.

MICHAEL BLUMENFELD,
Deputy Under Secretary of the Army.

[FR Doc. 79-6690 Filed 3-5-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1066-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Miami County Incinerator

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Miami County Incinerator. The Order requires Miami County Incinerator to bring air emissions from its incinerator at Troy, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Miami County Incinerator's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered by the Order.

DATES: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 21, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 59526) a notice setting out the provisions of a proposed State Delayed Compliance Order for Miami County Incinerator. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public

hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Miami County Incinerator by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Miami County Incinerator on a schedule to bring its incinerator at Troy, Ohio, into compliance as expeditiously as practicable with Regulations OAC 3745-17-09 and 3745-17-17, a part of the federally approved Ohio State Implementation Plan. Miami County Incinerator is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Miami County Incinerator to delay compliance with the SIP regulations covered by the Order until December 21, 1978.

Compliance with the Order by Miami County Incinerator will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Miami County Incinerator is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

Dated: February 27, 1979.

DOUGLAS M. COSTLE,
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.401 to read as follows:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to the Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*
Miami County Incinerator	Troy, Ohio	Dec. 21, 1978	OAC 3745-17-09. OAC 3745-17-17	Dec. 31, 1978.
*	*	*	*	*

2. The text of the order reads as follows:

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Miami County Incinerator, 2200 County Road 25-A, Troy, Ohio 45373.

ORDER

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

FINDINGS OF FACT

1. Miami County (hereinafter "Miami Co."), operates an incinerator which serves its facility located at 2200 County Road 25-A, Troy, Ohio 45373.

2. In the course of operation of said incinerator, air contaminants are emitted in violation of OAC 3745-17-07 (Control of visible air contaminants from stationary sources) and OAC 3745-17-09 (Restriction on emissions from incinerators).

3. Miami Co. is unable to immediately comply with OAC 3745-17-07 and OAC 3745-17-09.

4. Potential emissions of particulates from the incinerator are approximately 240.69 tons per year; therefore, Miami Co. constitutes a major stationary source or facility under Section 302(J) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC 3745-17-07 and OAC 3745-17-09 as expeditiously as practicable.

6. Implementation by Miami Co. of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance. Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03(S) and (I) of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Miami Co. shall bring its incinerator located at 2200 County Road 25-A, Troy, Ohio, into final compliance with OAC 3745-17-07 and OAC 3745-17-09 by converting to a transfer station and thereby ceasing operation of the incinerator no later than December 31, 1978.

2. Compliance with Order (1) above shall be achieved by Miami Co. in accordance with the following schedule on or before the dates specified:

Submit final control plans—*June 29, 1977.
Advertise for bids—*April 23, 1978.
Receive bids—*May 17, 1978.
Award contracts—July 17, 1978.
Order equipment—August 17, 1978.
Begin installation—November 17, 1978.
Complete installation—December 17, 1978.
Achievement of final compliance with OAC 3745-17-07 and OAC 3745-17-09—December 31, 1978.

*Already accomplished.

3. Pending achievement of compliance with Order (1) above, Miami Co. shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system of emission reduction, and which are necessary to ensure compliance with OAC 3745-17-07 and OAC 3745-17-09 insofar as Miami Co. is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as

amended. Such interim requirements shall include:

a. Miami Co. shall immediately institute a regular maintenance program to minimize emissions from the incinerator.

b. Miami Co. shall maintain the current operating schedule so as not to increase emissions from the incinerator.

c. Miami Co. shall continue to use the scrubber to minimize emissions from the incinerator.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Miami Co. shall submit a written progress report to the Regional Air Pollution Control Agency. The person submitting these reports shall certify whether each increment of progress has been achieved and the date.

5. Miami Co. is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

NED E. WILLIAMS, P.E.,
Director of Environmental Protection.

WAIVER

Miami County agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Miami County hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. Miami County also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

JOHN J. KNOOP,
ROGER MASSIE,
ROBERT E. CLAWSON,
Board of Miami County Commissioners, Miami County Incinerator.

[FR Doc. 79-6631 Filed 3-5-79; 8:45 am]

[6730-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

PART 530—INTERPRETATIONS AND STATEMENTS OF POLICY

Compliance With Wage and Price Standards

AGENCY: Federal Maritime Commission.

ACTION: Adoption of statement of policy.

SUMMARY: This statement of policy is to assist ocean common carriers in compliance with the Wage and Price Standards (6 CFR 705) issued by the Council on Wage and Price Stability. Companies which earned more than 75 percent of their total revenues from international trade during four quarters prior to October 2, 1978, need not comply with either the price standard or profit margin limitation. Companies are expected to comply with the reporting requirements and the wage standard.

EFFECTIVE DATE: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Pursuant to section 43 of the Shipping Act, 1916, (46 U.S.C. 841a) and the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Commission hereby adopts the following statement of policy by adding a new § 530.11, *Ocean Common Carrier Compliance With Wage and Price Standards* (6 CFR 705) to Title 46 CFR.

§ 530.11 Ocean common carrier compliance with wage and price standards.

(a) The President's Council on Wage and Price Stability published on November 7, 1978, voluntary wage and price standards (6 CFR 705) to implement President Carter's program for reducing inflation in the United States. In support of this effort, the Federal Maritime Commission is requesting that all rate or fare increases be accompanied by supporting documentation which demonstrates compliance with the wage and price standards.

(b) However, if a company derives a substantial portion of its revenue from international trade, compliance with the price guidelines, which cover ocean rates or fares, may not be required. Companies which earned more than 75 percent of their total revenues from international trade during the four quarters completed prior to October 2, 1978, need not comply with either the price standard or profit margin limitation enunciated in the President's guidelines. The following schedule illustrates this case with a hypothetical company revenue breakdown.

HYPOTHETICAL COMPANY REVENUE, 10-1-77 THROUGH 9-30-78

[Millions of Dollars]

Total revenue		Revenue from international trade		Revenue from domestic trade		Other company revenue
$300	=	$240	+	$45	+	$15

In this example the company derives 80 percent of its revenue from the international sector and, therefore, it is not required to comply with the guidelines.

(c) It should be emphasized that these specific exemptions do not constitute a blanket waiver for the ocean shipping industry from the Council's guidelines. Even those firms which need not adhere to the price standard or profit margin limitation are expected to comply with the company reporting requirements and the wage standard. Companies should promptly obtain a copy of the President's guidelines and associated documents in order to ensure full compliance with 6 CFR 705.

By the Commission February 23, 1979.

FRANCIS C. HURNEY
Secretary.

[FR Doc. 79-6619 Filed 3-5-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 78-351; FCC 79-80]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Deleting the Provisions Which Provide for the Use of Telegraphy by Limited Coast Stations

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This action deletes from the rules the provisions which authorize the use of radiotelegraphy by limited coast stations. In that no limited coast radiotelegraphy station has ever been authorized and none were ex-

pected to be authorized in the foreseeable future, this action was initiated by the Commission staff to remove useless provisions from the rules.

EFFECTIVE DATE: April 6, 1979.

ADDRESS: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert McNamara, Safety and Special Radio Services Bureau, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: February 6, 1979.
Released: February 28, 1979.

In the matter of amendment of Part 81 of the rules to delete the provisions which provide for the use of telegraphy by limited coast stations, SS Docket No. 78-351, 43 FR 51047, November 3, 1979.

SUMMARY

1. This Report and Order deletes from Part 81 [1] of the Commission's rules the provisions which authorize the use of radio telegraphy by limited coast stations in the Maritime Mobile Service.

BACKGROUND

2. Since 1951 the Commission's rules have provided for the licensing of limited coast stations [2] which employ telegraphy. However, no authorization for a limited coast radiotelegraph station has ever been granted. This is primarily because of narrow eligibility requirements and the lack of available frequencies for assignments to such stations. Section 81.225(a) of the rules provides that limited coast radiotelegraph stations shall: (1) Not be open to public correspondence; (2) not render a common carrier service; (3) not transmit press material or news items not required to serve a governmental purpose; and (4) be used exclusively to serve governmental purposes including the transmission of safety communications. In regard to frequency availability, radiotelegraph frequencies are limited by international allocations. We do not expect that additional radiotelegraph frequencies will be available for assignment to limited coast stations in the forseeable future.

3. Although the frequencies listed in § 81.206 (Assignable frequencies) could be assigned to either public [3] or limited coast stations, they have all in practice been assigned to public coast stations due to the scarcity of radiotelegraph frequencies and the need for adequate public correspondence capabilities in the Maritime Mobile Service. In a Memorandum Opinion and Order in Docket No. 19544 adopted February 22, 1978 (43 FR 10344, 67 FCC 2d 790) we affirmed, after an extensive review of public coast radiotelegraph operations, the view that public coast stations appear to provide the best means for the management of radiotelegraph frequencies on an equitable, disciplined, and reliable basis. Further, as noted above, we have never licensed any limited coast radiotelegraph stations, nor do we have any applications for such stations pending.

4. Therefore, in the Notice of Proposed Rule Making in this proceeding, [4] adopted October 19, 1978, we proposed to amend the rules in order to remove the provisions authorizing the use of telegraphy by limited coast stations and references thereto.

COMMENTS

5. No comments were received in response to the Notice of Proposed Rule Making issued in this proceeding.

ACTION

6. For the reasons discussed above, and considering that no comments were filed opposing our proposal, we will amend § 81.190 and delete §§ 81.261, 81.217, 81.223(b), 81.224(b), and 81.225 [5] as proposed in the Notice of Proposed Rule Making.

7. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7197.

8. *Accordingly, it is ordered,* That, pursuant to the authority contained in Sections 4(i) and 303 (b), (c) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended as set forth below, effective April 6, 1979.

9. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The parenthetical wording "(public and limited)" in the first sentence of paragraph (a) of § 81.190 is deleted and the heading is amended, so that the sentence and heading read as follows:

§ 81.190 Radiotelegraph watch by public coast stations.

(a) All public coast stations licensed to use telegraphy on frequencies within the band 405-535 kHz shall, during their hours of service, take the necessary measures to ensure an efficient safety watch by a duly licensed radiotelegraph operator on the international distress frequency 500 kHz for three minutes twice each hour, beginning at x h. 15 and x h. 45 Greenwich mean time. * * *

* * * * *

2. The heading of Subpart H is amended to read as follows:

Subpart H—Public Coast Stations, Use of Telegraphy

§ 81.216 [Reserved]

§ 81.217 [Reserved]

§ 81.225 [Reserved]

3. Sections 81.216, 81.217 and 81.225 are revoked and reserved.

§ 81.223 [Amended]

4. Section 81.223(b) is revoked and reserved.

§ 81.224 [Amended]

5. Section 81.224(b) is revoked and reserved.

[FR Doc. 79-6627 Filed 3-5-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Seventeenth Rev. S.O. No. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Seventeenth Revised Service Order No. 1234.

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[1] Part 81—Stations on Land in the Maritime Services and Alaska—Public Fixed Stations.

[2] Limited coast stations serve the operational and business needs of ships. For example, communications relating to the docking and servicing of a ship may be transmitted by limited coast stations. They are not open to public correspondence and may not charge a fee for their services.

[3] Public Coast stations render a communications common carrier service. They transmit messages to and receive messages from ships at sea without discrimination. U.S. public coast stations charge a fee for their communications services in accordance with tariffs on file with the Commission.

[4] 43 FR 51047, FCC 78-739.

[5] Sections 81.216, 81.217, 81.223, 81.224 and 81.225 were formerly numbered as 81.203, 81.204, 81.213, 81.214 and 81.205 respectively. The present designations were adopted in the Report and Order in Docket No. 20813, adopted June 2, 1977, 42 FR 31000, 65 FCC 2d 49.

SUMMARY: There are serious shortages of freight cars of the sizes and numbers required to comply with certain tariff provisions. Service Order No. 1234 authorizes the carriers to substitute sufficient smaller cars for larger cars required for shipments of specified commodities in order to meet minimum volume requirements but without limitations as to the number of cars to be used by each shipment. Seventeenth Revised Service Order No. 1234 adds beans to the list of commodities for which smaller cars may be substituted for the larger cars customarily used.

DATES: Effective 11:59 p.m., March 1, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. K. Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

DECIDED FEBRUARY 28, 1979.

There is an acute shortage of high capacity freight cars for transporting shipments of alfalfa pellets, barium sulphate (crude barite, ground or not ground), *beans, beet pellets, beet pulp, citrus pellets, citrus pulp, clay, coal, coke, cottonseed hulls, electrode binder pitch, fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch, perlite, phosphate (dried or ground, treated or untreated), salt, soybeans, soybean hulls, soybean products or sunflower seeds, caused by certain tariff provisions specifying the minimum quantities that must be loaded into cars offered to the carrier for transport. At the same time smaller cars, suitable except as to capacity, are available for transporting these products. The inability of the carriers and shippers to utilize the smaller capacity cars in place of the larger cars required by tariff provisions is resulting in great economic loss to both shippers and carriers.

In the opinion of the Commission, an emergency exists requiring immediate action to modify existing rules, regulations and practices with respect to car service to secure maximum utilization of the available supply of freight cars and to alleviate shortages of cars. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1234 Distribution of freight cars.

(a) Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments, of alfalfa pellets, barium sulphate (crude barite, ground or not ground), *beans, beet pellets, beet pulp, citrus pellets, citrus pulp, clay, coal, coke, cottonseed hulls, electrode binder pitch, fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch, perlite, phosphate (dried and ground, treated and untreated), salt, soybeans, soybean hulls, soybean products, or sunflower seeds regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions (b) and (c).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing To Be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Car of (——) cu. ft. and of (——) lbs. or greater capacity ordered. Smaller cars furnished authority Seventeenth Revised ICC Service Order No. 1234."

(f) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(j) *Effective date.* This order shall become effective at 11:59 p.m., March 1, 1979.

(k) *Expiration.* The provisions of this order shall remain in effect unless modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6746 Filed 3-5-79; 8:45 am]

[7035-01-M]

[S.O. No. 1363]

PART 1033—CAR SERVICE

Substitution of Refrigerator Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1363).

SUMMARY: There is a substantial shortage of boxcars on Burlington Northern, Inc. for shipments of sugar. BN has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar. Service Order No. 1363 authorizes BN, with the consent of the shipper, to substitute two refrigerator cars for each boxcar ordered for shipments of sugar.

DATES: Effective 12:01 a.m. February 28, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. K. Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

DECIDED FEBRUARY 27, 1979.

An acute shortage of boxcars for transporting shipments of sugar exists on Burlington Northern Inc. (BN) at

stations on its lines. The BN has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar, and use of these refrigerator cars for the transportation of sugar is precluded by certain tariff provisions, thus curtailing shipments of sugar. There is a need for the use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of sugar. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1363 Substitution of refrigerator cars for boxcars.

(a) Each common carrier by railroad subject to the Interstate commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of Cars.* Burlington Northern Inc. (BN) may substitute two refrigerator cars for each boxcar ordered for shipments of sugar from any station on the BN and destined to any other station on the BN subject to the conditions provided in paragraphs (2) through (5) of this order.

(2) *Concurrence of Shipper Required.* The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(3) *Exclusive BN Movement Required.* Shipments of sugar for which two refrigerator cars are substituted for one boxcar must originate and terminate at stations on the BN and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(4) *Minimum weights.* The minimum weight per shipment of sugar for which two refrigerator cars have been substituted for one boxcar shall be that specified in the applicable tariff for the car ordered.

(5) *Endorsement of Billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1363.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, insterstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 28, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect unless modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-6747 Filed 3-5-79; 8:45 am]

proposed rules

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

[1 CFR Chapter III]

USE OF COST-BENEFIT AND OTHER SIMILAR ANALYTICAL METHODS OF REGULATION

Draft Recommendation

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Agency Decisional Processes has under consideration a draft recommendation on the use of cost-benefit and other similar analytical methods in regulation. Interested persons are invited to comment on the draft recommendation.

DATES: Comments by March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

David M. Pritzker, Administrative Conference of the United States, 2120 L Street, N.W., Washington, D.C. 20037 (202-254-7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Agency Decisional Processes has under consideration a draft recommendation on the use of cost-benefit and other similar analytical methods in regulation, based on a study prepared by Professor Michael Baram of the Franklin Pierce Law Center.

The draft recommendation is based on a recognition that Federal agencies frequently must make regulatory decisions which require a balancing of a multiplicity of primary and collateral regulatory objectives, including those relating to economic and social interests, and to health, safety, resource management or environmental quality. Statutes prescribing policy objectives and a general framework for such agency decision-making often lack detailed guidance on the analytic methods to be applied to balance costs, risks and benefits. Moreover, an agency may be subject to constraints imposed by multiple statutes with varying goals, as well as Presidential requirements such as Executive Order 12044. As a practical result agencies have a considerable responsibility in deciding how to structure a central feature of their decision-making function, the making of tradeoffs necessary to reach decisions. "Costs-benefit" and similar analytic techniques are sometimes used to give structure to the exercise of this responsibility by organizaing available information on alternative courses of action, and thereby displaying possible tradeoff opportunities to the decision-makers. It normally includes identification of the several impacts of the courses of action under consideration, a quantification of each of the impacts where feasible, and an examination of the net effects.

The recommendation seeks neither to promote nor to discourage the use of cost-benefit analysis as a framework for agency decision-making, but rather to enhance the effectiveness of agency decision-making where either Congress or agencies determine to use such techniques.

The Committee on Agency Decisional Processes will meet at the end of March 1979 to reconsider the proposed recommendation in the light of the comments received.

PROPOSED RECOMMENDATION

USE OF COST-BENEFIT AND SIMILAR ANALYSES IN REGULATION

Introduction

Federal agencies must frequently weigh competing health, safety, resource management, environmental, economic, and other societal interests when seeking to achieve a prescribed statutory objective. Wise decision-making presupposes that the potential benefits and costs of the actions under consideration will be identified, will be quantified if feasible, and will be appraised in relation to each other. To give structure to the exercise of this responsibility, agencies sometimes use "cost-benefit" and similar analytic approaches to organize available information to determine the consequences of possible courses of action in terms of their costs, risks and benefits. Such techniques seek to display the projected net effects of alternative courses of action and, when properly used, can assist the decision-maker in deciding which of the alternatives is most likely to produce the desired result.

The following recommendation seeks neither to promote nor to discourage the use of cost-benefit analysis or any other particular kind of analysis as a framework for agency decision-making. Its purpose, rather, is to promote openness in the decision-making process, both to ensure that the agency's analytical methods and assumptions, whatever they may be, are compatible with the conclusions finally reached and to enhance public confidence in the soundness of those conclusions once they have been announced. The intent of the recommendation will be served by giving the public adequate advance notice of the agency's proposed methodologies, either generically or by means of special notice in a particular proceeding.

Recommendation

1. Each agency planning to use cost-benefit or similar analyses in a particular proceeding should, in its public notice of the proceeding, address the following points:

a. The statutory or other basis for the agency's conduct of cost-benefit or similar analyses in the proceeding.

b. The particular analytical approach to be followed by the agency (e.g., cost-benefit analysis, cost-effectiveness analysis, qualitative or non-numerative balancing), with a description of the method.

c. The agency's methods for evaluating intangible costs and benefits, for discounting future costs and benefits, and for taking account of distributional effects arising under the selected methodology, to the extent such issues are involved in the analyses.

d. The timing of cost-benefit or similar analyses in the agency's consideration of the conclusions to be reached.

e. The extent of public participation allowed in the design, conduct, and evaluation of the cost-benefit or similar analyses.

f. The extent and manner in which the public is to be accorded access to information and assumptions used in the analyses.

The public notice should indicate any assumptions or preliminary findings on which the proceeding is to be based.

2. In the final agency determination, any revisions of assumptions or preliminary findings, and a statement of the weight given the cost-benefit or similar analyses, should be included in the decision record and made available to the public.

3. Each agency using cost-benefit or similar analyses in decision-making should, whenever feasible, adopt ge-

neric regulations or policy statements describing the use of cost-benefit or similar techniques in the various recurrent settings where they are likely to be employed. Agencies that have numerous and varied statutory functions may suitably formulate separate regulations or policy statements for different areas of statutory responsibility. The adoption of generic regulations or policy statements may permit the use of different techniques on an ad hoc basis where the agency determines that to be advisable. The regulations or policy statement should provide that the public be given adequate advance notice of the agency's proposed methodology including the points listed in paragraph 1, either generically or by means of special notice in particular proceedings.

RICHARD K. BERG,
Executive Secretary.

MARCH 1, 1979.

[FR Doc. 79-6748 Filed 3-5-79; 8:45 am]

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1436]

1979 CROP GUM NAVAL STORES SUPPORT PROGRAM

Proposed Rulemaking

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to advise that the Commodity Credit Corporation, as authorized by the Agricultural Act of 1949, as amended, is considering whether a price support program for 1979-crop gum naval stores should be established, and, if so, at what level of support.

The support program would stabilize market prices and protect producers, processors and consumers, and would enable producers to obtain price support for 1979-crop gum naval stores. Written comments are invited from interested persons.

DATE: Written comments must be received on or before April 6, 1979, in order to be sure of consideration.

ADDRESS: Producer Associations Division, Agricultural Stabilization and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dallas R. Smith (ASCS) (202) 447-7413.

SUPPLEMENTARY INFORMATION: The Secretary is granted the authority under Title III ("Other Nonbasic Agricultural Commodities"), Sec. 301, of the Agricultural Act of 1949, as amended, to make available a loan and/or purchase program "to producers for any nonbasic commodity not designated in Title II at a level not in excess of 90 per centum of the parity price for the commodity * * * " Sec. 302 provides that "price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a loan program is in effect and who are complying with such program".

Sec. 401 of the Act requires that the Secretary, in determining whether there shall be a program, consider: (1) The supply of the commodity in relation to the demand therefore, (2) the price levels at which other commodities are being supported, (3) availability of funds, (4) perishability and storability of the commodity, (5) importance of the commodity to agriculture and the national economy, (6) ability to dispose of stocks acquired through a support operation, and (7) the ability and willingness of producers to help keep supplies in line with demand.

Executive Order 12044 (43 FR 12661, March, 21, 1978) requires at least 60 days for public comments on proposed significant regulations, except where the agency determines this is not possible, or is not in the best interests of the producers. In view of the fact that the producers are at this time preparing the trees for harvest, which begins in mid-March 1979, producers need to know the support level and operating provisions before that time. Therefore, it is hereby found and determined that compliance with the provision of Executive Order 12044 is impossible and contrary to public interest. Accordingly, comments must be received by April 6, 1979, in order to be considered.

PROPOSED RULE

In view of the interest shown by producers in a support program, the Secretary will consider the alternatives of a loan program for the 1979-crop of gum naval stores, a loan-purchase program, or no program in 1979. The loan program to be considered would be a non-recourse loan program as was in effect for the 1978-crop of gum naval stores. The loan-purchase program would be similar to that in effect for the 1976-crop of gum naval stores.

Before making any determinaton the Department will give consideration to comments, data, views and recommendations submitted in writing, within the comment period, to the Director, Producer Associations Division.

All submissions received will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5750, South Building, 14th and Independence Avenue, SW., Washington, D.C. (7 CFR 1.27(b)).

NOTE.—An approved Impact Analysis Statement is available from John I. Morton (ASCS) (202) 447-7413.

This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C. on February 28, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-6648 Filed 3-1-79; 2:10 pm]

[4410-10-M]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

ARREST AND BOND OF ALIENS

Revisions to Procedures and Criteria

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This is a Notice of Proposed Rule Making proposing amendments to the regulations of the Immigration and Naturalization Service respecting the arrest and release on bond of aliens in the United States. A review of the arrest and bond procedures was made by the Immigration and Naturalization Service and it was concluded that the proposed regulations should be published. These proposed regulations are necessary and intended to set forth criteria for arrest and bond and are intended to insure that determinations regarding such actions will be made in a uniform manner by all Service offices throughout the country.

DATES: Representations must be received on or before May 7, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instuctions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This is a Notice of Proposed Rule Making which proposes to amend 8 CFR 242.2(a). The proposed amendments: (1) Provide that a warrant of arrest should not be issued unless the

issuing officer has reason to believe the alien is likely to abscond or will be a threat to public safety or national security; (2) set forth a number of crtieria to be considered by Service officers in determining whether or not to issue warrants of arrest and (3) provide for concurrence in a bond decision by the regional commissioner where the alien is ordered to be detained without bond or to be held in lieu of a bond in excess of $5,000.

The proposed amendments on arrest are the result of efforts of a team of Service officers chaired by the Deputy Commissioner to set forth specifically the conditions and criteria under which aliens may be arrested. The proposed amendments on bond determination are the result of a review of bond procedures and practices in selected Service offices, from which it was concluded that amendments to the regulations were necessary and would be helpful in making uniform decisions in bond cases throughout the Service.

In the light of the foregoing it is proposed to revise Chapter I of Title 8 of the Code of Federal Regulations as set forth below:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

It is proposed to revise § 242.2 as set forth below.

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under section 242(d) of the Act, the respondent may be arrested and taken into custody under a warrant of arrest. However, such warrant may be issued only by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a). The warrant should not be issued unless the issuing officer has reason to believe the alien is likely to abscond or will be a threat to public safety or national security. In issuing a warrant of arrest, the issuing officer shall, among other factors, take into consideration the respondent's close family ties; age; fixed address; prior immigration or any law violations; employment history; financial condition; previous attempts to escape or abscond; reasonable cause to believe the respondent will not appear but will evade immigration process. If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may order its cancellation. When a warrant of arrest is served under this part, the alien shall have explained to him in reasonable and understandable language (1) the contents of the order to show cause, (2) the reason for his arrest (3) that any statement he makes may be used against him, and (4) his right to be represented by counsel of his own choice at no expense to the Government. He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chpater, located in the district where his deportation hearing will be held. He shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights. Service of these documents shall be noted on Form I-213. He shall then be advised whether he is to be continued in custody; or released under bond, and the amount and conditions of the bond; or released on his own recogizance and under what conditions. No alien shall be detained without bond or in lieu of a bond in excess of $5,000 unless prior concurrence of the appropriate regional commissioner is obtained. If the decision is made to detain an alien in lieu of a bond in excess of $5,000 and the regional commissioner is unavailable for concurrence, bond may be set immediately and concurrence obtained on the next working day. The regional commissioner's authority to concur in such custody shall not be redelegated below the level of the acting regional commissioner. The regional commissioner's decisions shall be recorded on Form I-265A (Information Worksheet for Bond/Custody Determination). A respondent on whom a warrant of arrest has been served may apply to the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), for release or for amelioration of the conditions under which he may be released. The district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), when serving the warrant of arrest and when determining any application pertaining thereto, shall furnish the respondent with a notice of decision, which may be on Form I-286, indicating whether custody will be continued or terminated, specifying the conditions, if any, under which releases is permitted, and advising the respondent appropriately whether he may apply to an immigration judge pursuant to paragraph (b) of this section for release or modification of the conditions of release or whether he may appeal to the Board. A direct appeal to the Board from a determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), shall not be allowed except as authorized by paragraph (b) of this section.

* * * * *

(Sec. 103 and 242; 8 U.S.C. 1103 and 1252)

PUBLIC COMMENTS INVITED

In accordance with the provisions of section 553 of Title 5 of the United States Code, interested persons are invited to submit relevant data, views and arguments concerning these proposed rules to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, NW., Washington, D.C. 20536 on or before May 7, 1979. Comments should be submitted in writing, in duplicate.

Dated: March 1, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-6604 Filed 3-5-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for the Purpose of SBA Loan Guarantees—Water Supply Industry

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking.

SUMMARY: This rule proposes to establish a size standard for the water supply industry. It is necessary because small firms in the industry are being faced with increased financial obligations to meet Federal water pollution requirements. It is proposed that this new rule will establish the eligibility criterion for small water supply firms for SBA assistance.

DATE: Written comments must be submitted by April 5, 1979.

ADDRESS ALL COMMENTS TO: Kaleel C. Skeirik, Director, Size Standards Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Robert N. Ray, Jr., (202) 653-6373.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act (SDWA) was enacted on December 16, 1974, as an amendment to the Public Health Service Act of the purpose of stand-

ardizing the quality of the Nation's water supply. This Act carries with it potential monitoring and treatment requirements which necessitate additional costs to virtually all water systems and ultimately to consumers. Over the last year and a half, a detailed economic impact analysis of this legislation has been initiated by the Environmental Protection Agency (EPA) in a special survey of community water systems. Data from this survey indicate that smaller water systems are more affected by this legislation than are larger systems. The EPA has therefore requested the SBA to provide financial assistance to smaller firms in the industry that have suffered significant additional costs as a result of the 1974 Act.

SIC 4941, *Water Supply,* is composed of approximately 35,000 community water systems, about 44 percent of which are privately owned firms. The EPA's analysis of this industry does not separate firms into a private and public sector and therefore the following summary will describe the industry in general terms only. However, the industry characteristics and financial problems present within the two sectors are sufficiently similar to reflect fairly accurately the problems facing the private sector.

Since water facilities are not duplicated to a particular customer, the average firm in the industry is in a monopoly position, as it is the only supplier of water to a particular community. Nonetheless, small firms as compared with large firms in the water supply business are at a decided disadvantage in meeting the demands of water pollution regulations which require substantial capital outlays with no corresponding increase in output or income. This stems from three factors: (1) monitoring costs per person tend to be greater in smaller community water systems, (2) corrective action expenses for small water systems tend to be high, since noncompliance with the Safe Drinking Water Regulation is disproportionately concentrated among smaller systems, and (3) smaller firms in the industry do not have the same access to financial resources as larger firms which are better able to finance improvements by borrowing from local institutions or selling bonds.

The size distribution of firms in the water supply industry is very skewed, with many systems servicing small populations and a few systems servicing large populations. In percent of sales, fewer than 1 percent of the firms in this industry are responsible for 97 percent of the retail sales. Thus, with a size standard or $2.5 million, over 99 percent of the concerns in the industry would be considered small, although these concerns account for only 19 percent of sales. Approximately 50 firms in the $2.0-$2.5 million range could be affected by this new size standard. A size standard of $2.5 million in retail sales therefore provides financial support for additional smaller size firms which the EPA has indicated are in need of assistance. Moreover, for firms above the size standard, financial assistance may still be available under § 121.3-16, *Definition of small business for the purpose of pollution control guarantee assistance under Public Law 94-305.*

Accordingly, pursuant to authority contained in section 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 634, et seq, Section 121.3-10 of Part 121, Chapter I of Title 13, Code of Federal Regulations, is proposed to be amended by adding subparagraph (d)(12) to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

* * * * *

(d) * * *.

(12) As small if it is primarily engaged in the water supply industry and its annual receipts do not exceed $2.5 million.

Dated: February 14, 1979.

WILLIAM H. MAUK, Jr.,
Acting Administrator.

[FR Doc. 79-6684 Filed 3-5-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-6029; 34-15582, 35-20934; IC-10600]

OIL AND GAS PRODUCERS

Full Cost Accounting Practices

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Commission is withdrawing its proposed rule (43 FR 40724) which would have required oil and gas producers following the full cost method of accounting to make supplemental disclosures of capitalized costs and costs incurred had the successful efforts method of accounting been followed. The Commission has concluded that significant benefit would not be obtained from such a requirements.

DATE: February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

James L. Russell, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: Securities Act Release No. 5968 [43 FR 40724], August 31, 1978, proposed for comment uniform financial accounting and disclosure requirements for oil and gas producers following the full cost method of accounting. Included among the proposed disclosures was the aggregate amount of costs capitalized on the balance sheet that would have been charged to expense and the approximate amount of costs incurred in the current year that would have been expensed had the successful efforts method of accounting been followed.

In announcing its final rules for the full cost method in Accounting Series Release No. 258 [43 FR 60413], December 19, 1978, the Commission indicated that it had deferred consideration of this specific proposal. As summarized in that release, many commentators objected to such a requirement as being an unreasonable and unnecessary burden. These persons believed that the proposal was inconsistent with the conclusions in Accounting Series Release No. 253 [43 FR 40688], August 31, 1978, that both successful efforts and full cost were severely limited in conveying information that would permit investors and government policy-makers to gain an understanding of the operations of individual companies or to compare the operations of different companies. A small number of commentators did, however, express the view that these supplemental disclosures were essential for a comparison of the financial position and operating results of companies using alternative accounting methods during the period in which reserve recognition accounting is being developed.

The Commission has concluded that relevant information for comparing oil and gas producing companies is provided by its previously adopted disclosure requirements, including reserve quantities and valuations and changes therein, and the proposed supplemental earnings summary.[1] The benefits of additional supplemental disclosures by full cost companies do not appear to outweigh the cost of requiring those companies to compute the information. Accordingly, the disclosure requirements proposed as paragraphs (i)(7)(ii) and (i)(7)(iii) of § 210.3-18 are hereby withdrawn.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1979.

[FR Doc. 79-6736 Filed 3-5-79; 8:45 am]

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[1] See Securities Act Release No. 5969 [43 FR 40726], August 31, 1978.

[8010-01-M]

[17 CFR Part 270]

[Release No. IC-10605, File No. S7-773]

AGENCY TRANSACTIONS BY AFFILIATED PERSONS ON A SECURITIES EXCHANGE

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Investment Company Act of 1940, in part, prohibits an affiliated person of a registered investment company who is acting as broker in a securities transaction involving that company from receiving a commission, fee or other remuneration exceeding the usual and customary broker's commission if the purchase or sale is effected on a securities exchange. However, the advent of negotiated commission rates may make it impracticable for an investment company to determine whether brokerage commissions paid to affiliated persons satisfy the statutory standard of a usual and customary broker's commission. Accordingly, the Commission is requesting public comment on a proposed rule which, provided that certain conditions are satisfied, would deem a commission which is fair and reasonable (compared to that received by other brokers in comparable transactions for similar securities on a securities exchange) as not exceeding the usual and customary broker's commission. Among the conditions is a requirement that the transaction be effected pursuant to procedures, established by the investment company's directors, which are reasonably designed to provide remuneration that is reasonable and fair compared to the remuneration received by other persons in connection with similar transactions on a securities exchange during a comparable time period. This proposed rule was prepared by the Division of Investment Management's Investment Company Act Study Group as part of it re-examination of the regulation of investment companies.

DATE: Comments must be received by April 13, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-773.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Mark B. Goldfus, Special Counsel, Investment Company Act Study Group or William Randolph Thompson, Esq., Office of Investment Company Regulation, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-1579.

SUPPLEMENTARY INFORMATION: In enacting the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 et seq.], Congress determined that the national public interest and the interest of investors are adversely affected when investment companies are organized, managed, or their portfolio securities are selected in the interest of, among other persons, brokers.[1] Presumably in part to address that concern, Congress enacted section 17(e) of the Act (15 U.S.C. 80a-17(e)) which concerns the renumeration that an affiliated person of an investment company and an affiliated person of such person may receive in transactions involving that company.[2]

Section 17(e)(1) of the Act prohibits such an affiliated person acting as agent from accepting any compensation from any source (other than a regular salary or wage from an investment company) for the purchase or sale of property to or for such company or any controlled company thereof, except in the course of such person's business as an underwriter or broker.

Section 17(e)(2) of the Act specifically prohibits such an affiliated person—

> [A]cting as broker, in connection with the sale of securities to or by such registered investment company or any controlled company thereof, to receive from any source a commission, fee, or other remuneration for effecting such transaction which exceeds (A) the usual and customary broker's commission if the sale is effected on a securities exchange. * * *

Thus, in effect, section 17(e)(2) limits the compensation which may be received by a person acting in reliance on the exemption for the brokerage business from the prohibitions of section 17(e)(1) of the Act. Congress thereby intended an affiliated broker in executing such transactions to receive only "the ordinary stock exchange brokerage commission." [3]

However, in 1975 the Commission promulgated rule 19b-3 [17 CFR 240.19b-3] under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], which prohibits the fixing of commission rates by national securities exchanges.[4] Consequently with the advent of fully negotiated—and therefore fluctuating—commission rates, it may be impracticable presently to determine the "usual and customary broker's commission" for any particular agency transaction on such a securities exchange.

Accordingly, the Commission proposes adopting rule 17e-2 [17 CFR 270.17e-2] under the Act to define the conditions under which, if satisfied, an affiliated person could receive a commission, fee, or other remuneration as broker in such a securities transaction which would be deemed not to exceed the "usual and customary broker's commission" for purposes of section 17(e)(2)(A) of the Act.[5] As incorporated in proposed rule 17e-2, these conditions, in part, would require that the investment company's directors, including a majority of its disinterested directors,[6] establish procedures which are reasonably designed to provide that the commission, fee, or other remuneration received by the affiliated broker is reasonable and fair compared to the commission, fee or other remuneration received by other brokers in connection with similar securities in comparable transactions during a comparable period of time.[7] This

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[1] Section 1(b)(2) of the Act [15 U.S.C. 80a-1(b)(2)].

[2] The term "affiliated person" is defined in section 2(a)(3) of the Act [15 U.S.C. 80a-2(a)(3)].

[3] Testimony of David Schenker, Chief Counsel, Investment Trust Study, *Hearings Before a Subcommittee of the Committee on Banking and Currency*, 76th Cong., 3d Sess. (1940) 262. Accord S. Rep. 1775, 76th Cong., 3d Sess. (1940) 14-15 and H.R. Rep. No. 2639, 76th Cong., 3d Sess. (1940) 18.

[4] Securities Exchange Act Release No. 11203 (Jan. 23, 1975), 40 FR 7403 (1975). That rule became effective May 1, 1975, except as to floor brokerage commissions for which it became effective on May 1, 1976.

[5] Rule 17e-2, if adopted as proposed, would provide a method of complying with the statutory limitation on remuneration which is established in section 17(e)(2)(A) of the Act. As rulemaking, it would not, of course, supersede that statutory limitation. Therefore, it is conceivable that some investment companies may determine to rely directly on the language of section 17(e)(2)(A), rather than on the proposed rule, in determining whether specific brokerage transactions comply with the statutory limitations, although that appears to be difficult where fluctuating commission rates are involved. Until a rule providing an alternative manner of determining compliance with section 17(e)(2)(A) has been adopted, the Commission will not institute enforcement action against investment companies which pay brokerage commissions to affiliated brokers in good faith in a manner which Congress expected would satisfy the objectives of section 17(e)(2)(A).

[6] The term "disinterested director" is commonly used as a reference to a director who is not an interested person of the investment company, as defined in section 2(a)(19) of the Act [15 U.S.C. 80a-2(a)(19)].

[7] In establishing those guidelines, directors of investment companies should appreciate fully that section 17(e) of the Act was intended, in part, to prohibit those situations where an affiliated person would operate on behalf of an investment company while under a conflict of interest, such as by receiving gratuities for effecting particular transactions. See, e.g., U.S. v. Deutsch, 451

Footnotes continued on next page

standard would allow an affiliated broker to receive no more than the remuneration which would be expected to be received by an unaffiliated broker in a commensurate arm's-length transaction.[8]

Because of the difficulties inherent in monitoring continuously the reasonableness and fairness of such unfixed commission rates, the Commission believes that the first line of responsibility for determining compliance with proposed rule 17e-2 must be with each investment company's directors. Therefore, proposed rule 17e-2 would require that, at least quarterly, the investment company's directors, including a majority of its disinterested directors, determine whether the transactions effected pursuant to rule 17e-2 have satisfied the procedures established in the guidelines.[9] These requirements are analogous to conditions proposed to be incorporated into rule 10f-3 [17 CFR 270.10f-3], which exempts the acquisition of securities from certain underwriting syndicates which would otherwise be prohibited under section 10(f) of the Act [15 U.S.C. 80a-10(f)].[10] Furthermore, they are consistent with the Investment Company Act Study Group's recommendation that enhanced responsibility for management decisions and legal compliance generally should be retained by investment companies' directors.

As in the proposed amendments to rule 10f-3, a copy of the director's guidelines and records pertaining to each such transaction effected in reliance on proposed rule 17e-2 must be maintained by the investment company, pursuant to section 31(a) of the Act [15 U.S.C. 80a-30(a)], so that the Commission may monitor experience with proposed rule 17e-2 through its inspection program.[11] However, unlike the proposed amendments to rule 10f-3, rule 17e-2 would not require that all transactions effected thereunder be indicated in the investment company's quarterly report.[12] Information concerning aggregate brokerage commissions paid by an investment company to any affiliated person or any affiliated person of such person presently must be disclosed in that investment company's prospectuses and in certain proxy statements pertaining to the election of certain directors.[13]

TEXT OF PROPOSED RULE

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.17e-2 [14] as follows:

§ 270.17e-2 Brokerage transactions on a securities exchange.

For purposes of section 17(e)(2)(A) of the Act [15 U.S.C 80a-17(e)(2)(A)], a commission, fee, or other remuneration shall be deemed as not exceeding the usual and customary broker's commission, if:

(a) The commission, fee, or other remuneration received or to be received is reasonable and fair compared to the commission, fee or other remuneration received by other brokers in connection with comparable transactions involving similar securities being purchased or sold on a securities exchange during a comparable period of time;

(b) The board of directors, including a majority of the directors of the investment company who are not interested persons thereof, (1) have adopted procedures which are reasonably designed to provide that such commission, fee, or other remuneration is consistent with the standard described in paragraph (a) of this section, (2) review no less frequently than annually such procedures for their continuing appropriateness, and (3) determine no less frequently than quarterly that all transactions effected pursuant to this rule during the preceding quarter were effected in compliance with such procedures and were consistent with the purposes of this section; and

(c) The investment company (1) shall maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in paragraph (b)(1) of this section, and (2) shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth the amount and source of the commission, fee or other remuneration received or to be received, the identity of the person acting as broker, the terms of the transaction, and the information or materials upon which the findings described in paragraph (b)(3) of this section were made.

(Rule 17e-2 is proposed pursuant to the provisions of section 6(c) [15 U.S.C. 80a-6(c)], section 31(a) [15 U.S.C. 80a-30(a)] and section 38(a) [15 U.S.C. 37(a)] of the Act.)

Footnotes continued from last page

F.2d 98 (2d Cir. 1971), cert. denied, 404 U.S. 1019 (1972) (criminal violation of section 17(e)(1) of the Act). Therefore, in determining what constitutes reasonable and fair remuneration in promulgating guidelines for compliance with proposed rule 17e-2, directors should evaluate carefully any circumstances in which an affiliated broker may receive remuneration from a source other than the investment company. Moreover, to fulfill their duty to monitor transactions executed pursuant to their guidelines for compliance with such guidelines, the directors should provide for the disclosure of the total compensation received by any affiliated broker from all sources in such transactions.

[8] It should be noted that, in addition to satisfying the standards of the proposed rule, any transaction executed by an affiliated broker must satisfy also the investment company's obligation to obtain best price and execution in each securities transaction. However, the Commission recently has noted that "[a]n obligation to get the cheapest execution regardless of qualitative considerations has been rejected by the Commission and the Congress." Securities Act Release No. 6019 (Jan. 30, 1979), 44 FR 7864 (1979), regarding the disclosure of brokerage placement practices by certain registered investment companies and certain other issuers. In this regard, although an investment company under appropriate circumstances may pay-up for research, in the event that "brokerage commissions paid to an affiliate * * * reflect more than normal charges for execution alone, the investment manager would be under a heavy burden to show that such payments were appropriate." Id. Moreover, the proposed rule would not affect, in any manner, any interpretations, rules or other promulgations concerning the prohibitions of section 11(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78k(a)], prohibiting a member of a national securities exchange from effecting transactions on such exchange for its own account or the account of an associated person of the member or any account as to which the member or one of its associated persons exercises investment discretion.

[9] In the event that the remuneration was not reasonable and fair, that the directors are unable to make the determination required by subparagraph (b)(3) of the proposed rule, or that such determination was based on materially erroneous or incomplete information, the investment company and its affiliated broker would be required to establish compliance directly with the statutory language of section 17(e)(2)(A) for the affiliated broker to retain lawfully the brokerage commission it had received. See supra, n.5.

[10] Investment Company Act Release No. 10592 (Feb. 13, 1979), 44 FR 10580 (1979). Section 10(f) of the Act generally prohibits an investment company's acquiring securities during an underwriting if any member of the underwriting syndicate is an officer, director, member of an advisory board, investment adviser, or employee of such investment company or if the syndicate member is an affiliated person of any such person.

[11] These records, of course, would be subject to the Commission's examination under section 31(b) of the Act [15 U.S.C. 80a-30(b)].

[12] Form N-1Q [17 CFR 274.106].

[13] Item 7(a) of Form N-1, for open-end management investment companies [17 CFR 239.15 and 274.11]; Item 9(a) of Form N-2, for closed-end management investment companies [17 CFR 239.14 and 274.11a-1]; and subparagraph (a)(7) of Rule 20a-2 under the Act [17 CFR 270.20a-2]. See, Securities Act Release No. 6019 (Jan. 30, 1979), 44 FR 7864 (1979).

[14] The Commission has proposed today the rescission of existing rule 17e-1 [17 CFR 270.17e-1] under the Act. Investment Company Act Release No. 10606 (Feb. 27, 1979), 44 FR (1979). The Commission proposes that, should that rule be rescinded, rule 17e-2 would be redesignated as a new rule 17e-1 [17 CFR 270.17e-1].

By the Commission.

GEORGE A. FITZSIMMONS
Secretary.

FEBRUARY 27, 1979.

[FR Doc. 79-6742 Filed 3-5-79; 8:45 am]

[8010-01-M]

[17 CFR Part 270]

[Release No. IC-10606, File No. S7-774]

REMUNERATION PERMITTED AFFILIATED PERSONS OF REGISTERED INVESTMENT COMPANIES ACTING AS BROKERS IN OVER-THE-COUNTER TRANSACTIONS

Proposed Rule Rescission

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule rescission.

SUMMARY: The Investment Company Act of 1940, in part, prohibits an affiliated person of a registered investment company who is acting as broker in a securities transaction involving that company from receiving a commission, fee or other remuneration exceeding 1 percent of the purchase or sale price if the purchase or sale is effected otherwise than on a securities exchange or in connection with a secondary distribution of such securities. In 1942, the Commission, by rule, authorized remuneration exceeding 1 percent in over-the-counter transactions if such remuneration generally equals the fixed minimum brokerage commissions prescribed by specified securities exchanges. For almost four years, such exchanges have been prohibited by the Commission from fixing minimum brokerage commission rates. Consequently, the rule no longer appears to be based on an appropriate standard for exemptive relief. Accordingly, the Commission believes that the rule is obsolete and proposes its rescission.

DATE: Comments must be received by April 13, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-774.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Mark B. Goldfus, Special Counsel, Investment Company Act Study Group or William Randolph Thompson, Esq., Office of Investment Company Regulation, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-1579.

SUPPLEMENTARY INFORMATION: Section 17(e)(1) of the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-17(e)(1)] prohibits an affiliated person of an investment company or any affiliated person of such person acting as agent from accepting any compensation from any source (other than a regular salary or wages from an investment company) for the purchase or sale of any property to or for such company or any controlled company thereof, except in the course of such person's business as an underwriter or broker.[1] Section 17(e)(2)(C) of the Act [15 U.S.C. 80a-17(e)(2)(C)] prohibits such an affiliated person—

> [A]cting as broker, in connection with the sale of securities to or by such registered company or any controlled company thereof, to receive from any source a commission, fee or other remuneration for effecting such transaction which exceeds * * * 1 percentum of the purchase or sale price of such securities if the sale is effected [otherwise than on a securities exchange or in connection with a secondary distribution of such securities] unless the Commission shall, by rules and regulations or order in the public interest and consistent with the protection of investors, permit a larger commission.

In 1942, the Commission promulgated rule 17e-1 [17 CFR 270.17e-1] under the Act generally "to permit affiliated brokers in effecting over-the-counter transactions in securities to receive remuneration equal to the minimum commissions prescribed by national securities exchanges with respect to similar transactions effected on such exchanges." [2] However, since 1975, rule 19b-3 [17 CFR 240.19b-3] under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] has prohibited national securities exchanges from prescribing such minimum brokerage commissions.[3]

The Commission notes that for approximately four years rule 17e-1 appears not to have been based upon an appropriate standard for the permissible remuneration which may be received by an affiliated broker in effecting over-the-counter transactions.[4] Moreover, the payment of such remuneration may raise serious questions regarding whether, by interpositioning the affiliated broker between an investment company and a market maker, an investment company's directors and its investment adviser have fulfilled their obligation to secure the best price and execution respecting that transaction for that company.[5]

§ 270.17e-1 [Deleted]

Accordingly, the Commission believes that rule 17e-1 is obsolete and proposes its rescission. However, it specifically requests comment concerning the circumstances under which it would be appropriate for a rulemaking under the applicable statutory standards to permit an affiliated broker to receive a brokerage commission greater than 1% of the purchase or sale price in such transactions.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 27, 1979.

[FR Doc. 79-6743 Filed 3-5-79; 8:45 am]

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[1] The term "affiliated person" is defined in section 2(a)(3) of the Act [15 U.S.C. 80a-2(a)(3)].

[2] Investment Company Act Release No. 378 (July 8, 1942), 7 FR 5209 (1942).

[3] Securities Exchange Act Release No. 11203 (Jan. 23, 1975), 40 FR 7403 (1975). That rule became effective May 1, 1975, except as to floor brokerage commissions for which it became effective on May 1, 1976.

[4] The Commission has proposed today adopting rule 17e-2 [17 CFR 270.17e-2] under the Act which, provided that certain conditions are satisfied, would deem certain remuneration received by affiliated brokers as not exceeding the statutory limitation described by section 17(e)(2)(A) of the Act [15 U.S.C. 80a-17(e)(2)(A)], which speaks in terms of "usual and customary broker's commission" and thus alludes to fixed minimum brokerage commission rates. Investment Company Act Release No. 10605 (Feb. 27, 1979), 44 FR (1979). Absent such a rulemaking, it may be no longer practicable generally for affiliated brokers to effect transactions for investment companies on securities exchanges because they may be unable to comply with that obsolete statutory standard. In contrast, rule 17e-1 does not affect, nor would the proposed rescission affect, the existing statutory ceiling of 1% of the purchase or sale price for over-the-counter transactions. Thus, an affiliated broker may continue in over-the-counter transactions on behalf of the investment company to receive remuneration within the relevant statutory limitation, which is unrelated to fixed brokerage commission rates, provided that such remuneration is consistent with investment company directors' and investment advisers' obligations to shareholders. Infra, n.6.

[5] "Persons engaged in the securities business cannot be unaware of their obligation to serve the best interest of customers and that interpositioning is bound to result in increased prices or costs." *Delaware Management Company, Inc.*, 43 SEC 392, 400 (1967) (footnote omitted). Accord *Financial Programs, Inc.*, Securities Exchange Act Release No. 11312 (March 24, 1975), 6 SEC Docket 503. In this regard, section 17(e)(2)(C) also does not allow an affiliated broker to retain remuneration for an unneeded service. *Steadman Security Corporation*, Securities Exchange Act Release No. 13695 (June 29, 1977), 12 SEC Docket 1041, 1056.

[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

OLD-AGE, SURVIVORS', AND DISABILITY INSURANCE BENEFITS

Basic Computations of Benefits and Lump Sums

AGENCY: Social Security Administration, HEW.

ACTION: Notice of a Decision to Develop Regulations.

SUMMARY: HEW plants to rewrite and reorganize its current regulations on computations of cash benefits under Title II of the Social Security Act. The primary purpose of this recodification is to comply with Executive Order 12044 and to meet the Department's "Operation Common Sense" standards by making these regulations clearer and easier to use. The regulations describe how primary insurance amounts under Title II are computed and recomputed and how they are increased when the cost of living rises. Finding a worker's "primary insurance amount" is the first step in determining the amount of the worker's benefit. The worker's primary insurance amount is the amount payable to the worker, based on the worker's social security earnings, if the worker retires at age 65 or becomes disabled. It is also the amount used to determine the benefit amounts of the worker's dependents or survivors. The proposed changes involve all of Subpart C of 20 CFR, Part 404. The Department has classified these regulations as "policy significant." The regulations will be published with Notice of Proposed Rulemaking.

FOR FURTHER INFORMATION CONTACT:

Tim Evans, 4-H-10 West High Rise Bldg., 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7951.

Dated: February 8, 1979.

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 79-6750 Filed 3-5-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

[21 CFR Part 81]

[Docket No. 79C-0053]

LEAD ACETATE

Postponement of Closing Date; Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to postpone the closing date for the provisional listing of lead acetate for use as a color additive in cosmetics that color the hair on the scalp until March 1, 1980. The Food and Drug Administration (FDA) is extending the closing date to provide time for the submission of information about the evaluation of studies showing lead salts to be animal carcinogens in response to a forthcoming request for data concerning the presence of lead in food. The information that is being requested can be relevant to use of lead acetate as a hair dye and will form a more complete administrative record upon which to base final action.

DATES: Comments by May 7, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 3, 1978 (43 FR 8790), FDA postponed the closing date for the provisional listing of lead acetate as a color additive for use as a component of hair dyes. The new closing date was December 31, 1978. The purpose of the postponement was to allow the continued marketing of lead acetate as a hair color while a short-term study to resolve definitively questions about percutaneous absorption of the hair dye was completed and evaluated. In the FEDERAL REGISTER of January 2, 1979 (44 FR 45), the closing date was further postponed until March 1, 1979 to provide FDA with additional time to complete its evaluation of the absorption study, make a decision on the status of lead acetate, and prepare this FEDERAL REGISTER document.

FDA has now completed its evaluation of the absorption study. Briefly, the Goldberg and Moore ^{203}Lead Skin Absorption Study involved the application of measured amounts of either a prototype hydroalcoholic hair dye formulation or a "cream" oil emulsion formulation to the foreheads of the test subjects. The formulations contained a measured amount of ^{203}lead acetate in combination with nonradioactive lead acetate. With the isotope technique it would be possible to differentiate between background lead absorption and any lead absorption resulting from dermal exposure to lead hair dyes because of specific radioactive isotope, ^{203}lead, does not occur in the natural environment. The test conditions were designed to encompass the types of exposure conditions typical of those expected under a variety of actual conditions of use, coupled with analytical procedures of sufficient sensitivity to establish whether percutaneous absorption would occur. Following exposure, various measurements of the levels of radioactive lead absorption were made.

This absorption study shows that lead acetatate in hair dyes is indeed absorbed through human skin, but in a miniscule amount—approximately ½ of 1 microgram (0.5 μg) per application. This amount compares to the approximately 35 μg that would be expected to be absorbed into the body from daily adult intake of lead in food (an average of 250 μg) and water up to 100 μg). Additional amounts of lead are absorbed daily from the air. The study also indicated that absorption of lead acetate occurs in greater amounts through abraded skin. As far as the agency is aware, the hair dyes containing lead acetate contain directions that the product should not be used on cut or abraded skin. The agency believes that labeling instructions of this type minimize the likelihood of absorption under actual conditions of use and should continue to appear on these products. Copies of this study and other submissions, as well as the references cited in this document, are on file with the Hearing Clerk, FDA, address above.

The March 3, 1978 FEDERAL REGISTER document described the previous history of use and regulation of lead acetate. In light of that history, the results of the latest absorption study present FDA with three regulatory alternatives: (1) to grant the pending petition for permanent listing filed by the Committee of the Progressive Hair Dye Industry; (2) to deny the petition; or (3) to defer action on the petition and postpone the current March 1, 1979 closing date if the conditions for such action are met.

The relevant statutory framework is as follows: Under section 706(b)(4) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 376(b)(4)), the Commis-

sioner may not permanently list a color for a proposed use "unless the data before him establish that such use, under the conditions of use specified in the regulations, will be safe." The Color Additive Amendments also include a specific anticancer clause ("Delaney Clause"). Unlike the anticancer clauses in the food additive provisions of the Act (section 409(c)(3)(A) (21 U.S.C. 348(c)(3)(A))) and the animal drug provisions (section 512(d)(1)(H) (21 U.S.C. 360b(d)(1)-(H))), the Delaney Clause in section 706(b)(5)(B) of the act (21 U.S.C. 376(b)(5)(B)) is divided into two parts. The first part, section 706(b)(5)(B)(i), provides that a color additive:

* * * shall be deemed unsafe, and shall not be listed, for any use which will or may result in ingestion of all or part of such additive, if the additive is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of additives for use in food, to induce cancer in man or animal.

Because this provision is limited to uses that will or may result in ingestion, it does not apply to the use of lead acetate in a hair dye. The applicable provision is the second part of the color additive Delaney Clause, section 706(b)(5)(ii), which states that a color additive:

* * * shall be deemed unsafe and shall not be listed, for any use which will not result in ingestion of any part of such additive, if, after tests which are appropriate for the evaluation of the safety of additives for such use, or after other relevant exposure of man or animal to such additive, it is found by the Secretary to induce cancer in man or animal.

There is a significant difference between these two parts of the color additive Delaney Clause. The first part, like the food additive Delaney Clause and the animal drug Delaney Clause, makes an animal ingestion study showing carcinogenicity dispositive. If the substance is found to induce cancer in an animal ingestion study, it cannot be approved; those Delaney provisions establish an irrebuttable presumption that a substance that induces cancer in an animal ingestion study is unsafe for human ingestion. The second part of the color additive Delaney Clause does not establish that irrebuttable presumption. It leaves to the scientific judgment of the Secretary of Health, Education, and Welfare (who has delegated this function to the Commissioner of Food and Drugs) whether an animal ingestion study or any other study showing carcinogenesis is "appropriate for the evaluation of the safety of [the additive]" for a use that does not result in human ingestion. Therefore, under this particular Delaney Clause, applicable to the use of a color additive in a hair dye and to other topical uses, the Commissioner has more discretion for the exercise of scientific judgment than under either of the other Delaney Clauses.

The March 3, 1978 FEDERAL REGISTER document briefly reviewed the toxicology of lead. In view of the miniscule amount of lead that is absorbed into the human body from use of lead acetate in a hair dye, FDA is satisfied that, apart from the issue of carcinogenicity, the use of lead acetate is safe in that it presents no reasonable prospect of harm. There remains, however, the issue of carcinogenicity. The March 3, 1978 document cited several animal feeding studies and concluded that they:

* * * establish that experimental animals exposed to very high levels of lead salts in their diets have shown carcinogenic effects. The studies, therefore, raise questions relating to the possible carcinogenicity of lead to man. On the basis of these studies the International Agency for Research on Cancer (IARC), World Health Organization, has concluded—and the Commissioner agrees—that lead acetate is carcinogenic when administered at high dietary levels in rats and mice; lead subacetate and lead phosphate are carcinogenic in the rat. [43 FR 8791]

Under any of the other Delaney Clauses, the agency would have no choice but to deny approval of lead acetate on the ground that it is an animal carcinogen, as shown in a feeding study. Under the Delaney Clause applicable to a hair dye, however, the agency must still determine, for purposes of deciding on permanent listing, whether the lead feeding studies are appropriate for the evaluation of the safety of lead acetate when used in a hair dye that leads to absorption of about 0.5 μg per application.

FDA's policies for the identification of substances presenting a human cancer risk were summarized in the agency's proposal to require warning labels on certain hair dyes that published in the FEDERAL REGISTER of January 6, 1978 (43 FR 1101). The agency there stated that it, together with other Federal agencies and the scientific community, regards high dose animal studies as a scientifically valid basis for assessing the possible carcinogenic effect of chemical substances on human beings. The agency further stated that:

* * * [i]f tumors can occur at sites other than the site of application, it would appear reasonable that any route of administration capable of delivering an adequate systemic dose would be appropriate unless there is substantial evidence indicating that a given route of administration is metabolically or pharmacologically inappropriate for the compound tested.

* * * * *

The predominant opinion among experts in the field of carcinogenesis is that the dose-response principle extends to very low doses of the carcinogens—that is, that there is no dose, however small, at which one can be certain that there is no risk. [43 FR 1103]

FDA expressly reaffirms these principles and the others set forth in the FEDERAL REGISTER document of January 6, 1978 as generally applicable to the identification of carcinogenic risks to humans.

Nevertheless, the application of these principles in the specific case of lead raises unique questions. The feeding studies establishing that lead is an animal carcinogen have been in the scientific literature since the 1960's; some were published as early as 1962. Yet, the scientific community at large has not drawn from these studies the conclusion of human carcinogenic risk that it has drawn from similar studies of other substances. Although other Federal agencies, along with FDA, have paid considerable attention to other aspects of lead toxicity, they have not made the potential cancer risk to humans a basis for regulatory action. In its 1972 report on lead salts, IARC stated "there is no evidence to suggest that exposure to lead salts causes cancer of any site in man." The view that lead does not present a human cancer risk has both support (Refs. 1, 2, and 3) and opposition (Refs. 4 and 5) in the scientific literature. Moreover, until very recently there has been virtually no expression of concern on the part of the public that lead poses a human cancer risk. The lack of consensus in the scientific community and the relative lack of attention on the part of Federal agencies and the public needs scrutiny in light of the clear and repeated results in the animal feeding studies.

It appears that for one reason or another, those who are concerned about human cancer risks have not been prepared to apply to the lead feeding studies the same principles for cancer risk identification that they apply to other studies. There may be a number of possible reasons. Lead may be unique among confirmed animal carcinogens in that lead induces animal cancers at doses that so greatly exceed, by 200-fold, the acutely toxic (fatally poisonous) level in humans. Thus, humans are at least 200 times more sensitive to the acute effects of lead than were the test animals. This fact may suggest that humans are also more sensitive to the chronic (carcinogenic) effects as well. But it may also suggest that lead may be metabolized differently in humans than in test animals. Lead has been used throughout history, and its acutely toxic effects on humans are well known. It is clear from this long experience with lead that humans resond differently to the acutely toxic effects of lead than do

test animals, and this difference gives rise to a question of whether there is also a difference in response to the carcinogenic effect of lead. In addition, although there is substantial human experience with lead, the epidemiological data on lead carcinogenicity are, as the March 3, 1978 FEDERAL REGISTER document noted, scant and contradictory. There may be other reasons as well for the apparent absence of widespread concern that lead presents a human cancer risk.

But for these uncertainties about the significance to humans of the lead feeding studies, FDA undoubtedly would apply to them the cancer risk identification policies summarized in the January 6, 1978 FEDERAL REGISTER document. The agency will still do so if an effort to resolve these issues does not lead to a scientifically sound conclusion that the studies are not appropriate to identification of a human cancer risk.

The concern about whether lead presents a human cancer risk extends beyond lead acetate to the lead from the solder in tin cans that leaches into food and to direct lead contamination of food from water, air, and other sources. The carcinogenic effects of lead acetate in animal studies appear attributable to the lead present in the compound. Thus, the same question concerning the potential risk to humans from lead acetate also arises in connection with lead in its ionic form. Because the same issue is presented, it is appropriate to examine this question about lead acetate in the context of a single FEDERAL REGISTER proceeding that will also examine the concern about the presence of lead in food. Accordingly, FDA is preparing a general FEDERAL REGISTER document that will seek assistance from the scientific community and the public in resolving this an other current concerns about lead. FDA expects to publish the document within 2 months. The document will allow a comment period of 90 days, after which FDA will review the information and data received and publish its conclusions on this matter and take any appropriate further measures. FDA estimates that this process will take approximately 1 year.

FDA emphasizes that in being willing to consider the possibility that its standard cancer risk identification policies may not apply to lead acetate hair dye, the agency is not in any way questioning the general validity of these policies, and is not holding out the possibility that they may be inapplicable to any other substance.

For the foregoing reasons, FDA concludes that it would not be proper at this time either to grant or to deny the pending petition for permanent listing. Rather, the agency proposes to postpone the closing date for the provisional listing of lead acetate for use in hair dyes until March 1, 1980. The purpose of this postponement is to provide FDA additional time to solicit and evaluate public comment on whether the animal feeding studies showing that lead is an animal carcinogen are appropriate for evaluating the safety of lead when used as a hair dye and when used in other products subject to regulation under the Federal Food, Drug, and Cosmetic Act.

The agency emphasizes that if this FEDERAL REGISTER process for scientific and public comment on the human carcinogenicity of lead leaves the issue unresolved, FDA will apply its standard cancer risk identification policies and conclude that lead acetate hair dye presents a human cancer risk. Appropriate regulatory action would then follow.

The agency believes that this proposal is consistent with the terms and the purposes of the transitional provisions in the Color Additive Amendments and with other applicable law. The purpose of the section authorizing provisional listing "is to make possible, on an interim basis for a reasonable period, through provisional listings, the use of commercially established color additives to the extent consistent with the public health, pending the completion of the scientific investigations needed as a basis for making determinations as to listing of such additives under the basic Act" (Pub. L. 86-618, 74 Stat. 404, sec. 203(a)(1); 21 U.S.C. 376 note). The Commissioner (by delegation from the Secretary) is authorized to extend a provisional listing "for such period or periods as he finds necessary to carry out the purpose of this section, if in [his] judgment such action is consistent with the objective of carrying to completion in good faith, as soon as reasonably practicable, the scientific investigations necessary for making a determination as to listing such additive, or such specified use or uses thereof, under section 706 of the basic Act" (*Id.*, sec. 203(a)(2)). This statute authorizes the Commissioner to extend provisional listing not only in order to complete tests ongoing in 1960, but also to complete new tests. *Health Research Group* v. *Califano*, Civ. Action No. 77-293, (D.D.C. Sept. 23, 1977). As a matter of common sense, an extension is also authorized where needed to complete an informed evaluation of available data.

It is the agency's view that now that minimal absorption has been confirmed, the question whether lead acetate in hair dye present a human cancer risk is squarely presented, and that informed resolution of that question requires an opportunity for public and scientific comment. It is also the agency's judgment, as noted below, that during the period needed for such comment the continued availability of lead acetate hair dyes on the market will not present a risk to the public health.

The agency is aware that particular care is required where exposure to a possible human carcinogen is involved. *Environmental Defense Fund* v. *EPA*, 465 F.2d 528, 538, (D.C. Cir. 1975). The agency recognizes that the contribution of lead acetate hair dye to overall human exposure to lead is slight, and is much less than the daily fluctuation in the average amount of background lead to which humans are exposed. Moreover, lead acetate is used only intermittently, being described in small amounts (approximately 0.5 μg), and not ordinarily on a daily basis as occurs from the exposure, in higher amounts, to lead in food, water, and air. Furthermore, the hair dye use of lead acetate contains an inherent check on the total amount of individual use, and does not present a potential problem of extremely high use by some individuals, as can occur with other products, e.g., consumption of soda beverages. On the basis of available information, the agency concludes that the minimal exposure to lead acetate from hair dyes during the postponement period does not constitute a health hazard requiring immediate action. Accordingly, the postponement of the closing date is consistent with portection of the public health.

REFERENCES

The following references are on file with the Hearing Clerk, FDA (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

(1) Cooper, W. C., "Mortality in Workers in Lead Production Facilities and Lead Battery Plants During the Period 1971-1975," prepared for International Lead and Zinc Research Organization, 1978.

(2) Dingwall-Fordyce, I. and R. E. Lane, "A Follow-up Study of Lead Workers," *British Journal of Industrial Medicine*, 20:313-315, 1963.

(3) Elwood, P. C., A. S. St. Leger, F. Moore, and M. Morton, "Lead in Water and Mortality," *Lancet*, April 3, 1976, p. 748.

(4) Blot, W. J. and J. F. Fraumeni, Jr., "Arsenical Air Pollution and Lung Cancer," *Lancet*, July 26, 1975, pp. 142-144.

(5) Finklea, J. F., "Lead Chromate—An Update" National Institute for Occupational Safety and Health Memorandum, October 8, 1976.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 81 be amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the entry for the closing date for the color additive "Lead acetate" listed in paragraph (g) to read "March 1, 1980."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing of additives,* by revising the closing date for "Lead acetate" in paragraph (b) to read "March 1, 1980."

Interested persons may, on or before May 7, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 28, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-6636 Filed 3-1-79; 1:52 pm]

[4110-03-M]

[21 CFR Parts 207, 210, 225, 226, 501, 510, 514, 558]

[Docket No. 77N-0076]

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Definitions and General Considerations; Postponement of Final Action

AGENCY: Food and Drug Administration.

ACTION: Postponement of final action on proposed rule.

SUMMARY: The Food and Drug Administration (FDA) announces postponement of final action on its proposal to redefine articles used in the production of medicated animal feeds. Recommendations included in the recently completed Medicated Feed Task Force Report require that the proposal be reconsidered in view of the recommendations to ensure that any final action on the proposal will be consistent with final implementation of the Task Force report.

FOR FURTHER INFORMATION CONTACT:

William B. Bixler, Bureau of Veterinary Medicine (HFV-5), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3460.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 17, 1978 (43 FR 2526), FDA proposed to redefine articles used in the production of medicated animal feeds and revise certain conditions for their approval.

In the FEDERAL REGISTER of December 15, 1978 (43 FR 58634), the agency announced the availability of an FDA Task Force report entitled "Second Generation of Medicated Feeds." The Task Force report examined FDA's current medicated feed program and made appropriate recommendations to the Commissioner of Food and Drugs for improvement. The report concluded that implementation of these recommendations would lead to a more meaningful medicated feed program with emphasis on the human risks associated with such products. The report suggested that the medicated feed application process be modified to provide this emphasis and generally to streamline it to lessen the paperwork burden on industry and government alike. The notice also stated that the agency's final decision on the recommendations contained in the report would not be made until a detailed manpower assessment and proposed implementation plan could be prepared. This additional information should be available to the agency on or about April 1, 1979.

A final decision on implementation of the Task Force report may require reconsideration of certain aspects of the proposal. Therefore, FDA will hold finalization of the proposal in abeyance pending its decision regarding the Task Force report, an assessment of the full impact of the report on the proposal, and whether to combine the proposed rulemaking with implementation of the report in a comprehensive action.

Dated: February 28, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6692 Filed 3-5-79; 8:45 am]

[4110-03-M]

[21 CFR Part 522]

[Docket No. 78N-0267]

STATUS OF INJECTABLE ANIMAL DRUGS

Extension of Time for Filing Comments on Notice of Intent Regarding Sterility and Pyrogenicity of Injectable Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice of Intent; Extension of Comment Period.

SUMMARY: This document extends for 120 days the comment period on a notice that the agency intends to propose a regulation that would require all injectable animal drugs to be sterile and free of extrinsic pyrogenic material. The extension was requested by the Animal Health Institute.

DATE: Comments by June 13, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Patricia N. Cushing, Bureau of Veterinary Medicine (HFV-234), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3460.

SUPPLEMENTARY INFORMATION: A notice of intent published in the FEDERAL REGISTER of December 15, 1978 (43 FR 58591) stated that the Food and Drug Administration (FDA) as considering proposing that all injectable drugs for use in animals be sterile and free of extrinsic pyrogenic material. The notice provided interested persons until February 13, 1979 to submit comments. In a letter dated January 29, 1979 (on file with the Hearing Clerk), the Animal Health Institute (AHI), Suite 1009, 1717 K St. NW., Washington DC 20006, requested that the comment period be extended 120 days.

AHI, a national trade association representing the principal manufacturers of animal health and nutrition products, stated that its members would be affected by any change in the status of injectable animal drugs. AHI requested an extension of 120 days so that several surveys could be conducted which would provide the agency with information regarding possible limitations on the proposed requirement and economic impact estimates.

The agency finds that, for good reason appearing, the time for filing comments should be extended until June 13, 1979.

Interested persons may, on or before June 13, 1979, submit written comments regarding this notice of intent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Comments should identified with the Hearing Clerk docket number found in brackets in the heading of this document and should be submitted in four copies, except that comments from individuals may be submitted in single copies. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 28, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

FR Doc. 79-6583 Filed 3-1-79; 12:37 pm]

[4710-06-M]

DEPARTMENT OF STATE

Bureau of Consular Affairs

[22 CFR Part 22]

[Docket No. 141]

CHANGE IN FEE FOR CONSULAR SERVICES

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to increase the charge for the execution of the application for passports. The present fee is $3. The proposed fee of $4 will enable the Department to recover the current full cost for providing this service. The proposed new fee is consistent with the user charge principle as prescribed by the Congress (31 U.S.C. 483a) and applied by the President.

DATES: Comments must be received on or before March 15, 1979. The proposed effective date is April 1, 1979.

ADDRESS: Send comments to Ronald Somerville, Bureau of Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Ronald Somerville. (202) 632-1158.

SUPPLEMENTARY INFORMATION: The Department of State is responsible for providing various consular services to both United States and foreign nationals. These services include: passport and citizenship; visa services for aliens; services relating to vessels and seamen; notarial services and authentications; services relating to taking evidence; and copy and recording services.

The proposed fee to be charged has been adjusted to insure that it is fair and equitable, taking into consideration direct and indirect cost to the U.S. Government, value to the recipient, public policy or interest served, and other pertinent facts.

Accordingly, Part 22 of Title 22 of the Code of Federal Regulations is revised as set forth below.

§ 22.1 Schedule of fees.

Passport and Citizenship Services—Fee

Item No.

1. Execution of application for passports (22 U.S.C. 214)—$4.00

2. Examination of passport application executed before a foreign official—$4.00

* * * * *

§ 22.8 Effective Date.

The charges hereby established will become effective on April 1, 1979 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

Dated: February 2, 1979.

For the Secretary of State.

BEN H. READ,
Under Secretary for Management.

[FR Doc. 79-6821 Filed 3-5-79; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 645]

[FHWA Docket No. 79-8]

UTILITY RELOCATION AND ADJUSTMENTS

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to solicit comments in anticipation of a future revision of its regulations concerning utility relocations and adjustments associated with Federal-aid highway construction.

DATES: Written comments must be received by April 30, 1979. Comments received after that date will be considered to the extent practicable.

ADDRESS: Submit written comments (preferably in triplicate) to Federal Highway Administration, FHWA Docket No. 79-8, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

James A. Carney, Office of Engineering, 202-426-0104; or Stephen C. Rhudy, Office of the Chief Counsel, 202-426-0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A previously issued advance notice of proposed rulemaking, 41 FR 42220, FHWA Docket No. 76-16, discussed a proposed updating of FHWA's regulations dealing with utility relocations and adjustments (23 CFR Part 645, Subpart A).

There are approximately 30,000 utility companies in the United States. Potentially, the facilities of the majority of these utility companies may at some time have to be altered due to conflicts with Federal-aid highway construction projects. States who pay the costs of utility relocations may be eligible for proportional reimbursement by the FHWA under 23 U.S.C. 123.

FHWA has developed policies and procedures in its regulations that prescribe the extent to which Federal funds may be applied to the costs incurred by States for the relocation or adjustment of utility facilities required by construction of Federal-aid highway projects.

The FHWA has recently decided to rewrite and update its regulations dealing with utility relocations and adjustments. The primary purpose in rewriting the regulations will be to simplify them and eliminate unnecessary requirements in accordance with FHWA's emphasis on reducing red tape. Only those requirements considered essential to satisfying the provisions of Title 23, United States Code, or maintaining orderly and uniform administration of FHWA's program will be retained.

Interested persons are invited to comment specifically in regard to the following areas:

1. What requirements of the existing regulations (23 CFR Part 645, Subpart A) should be retained or modified as appropriate for assuring compliance with the provisions of law as set forth in 23 U.S.C. 123?

2. What requirements of the existing regulations should be retained or modified to assure fair, reasonable and uniform administration of the relocation and adjustment of utilities under the Federal-aid highway program?

3. What requirements of the existing regulations are considered not to be essential for compliance with 23 U.S.C. 123 or uniform and reasonable program administration?

4. What additional requirements should be included in the regulations that would result in a more efficient and effective management of the utility relocation and adjustment program?

Those desiring to comment on this advance notice of proposed rulemaking are asked to submit their views in writing. Comments will be available for public inspection both before and after the closing date at the above address. All comments received in response to this advance notice will be considered before further rulemaking action is undertaken.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 123, 315 and 49 CFR 1.48(b))

Issued on February 27, 1979.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 79-6691 Filed 3-5-79; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 55]

ORGANIZATION OF THE YUROK TRIBE—VOTING FOR INTERIM TRIBAL GOVERNING COMMITTEE

Proposed Qualifications and Procedures for Preparing a Voting List

AGENCY: Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior proposes to add a new Part to its regulations to establish criteria and procedures for developing a list of persons entitled to vote in the election of an interim Yurok tribal governing committee. As indicated in the November 20, 1978, message of the Assistant Secretary-Indian Affairs to the Hoopa and Yurok people, the election of this committee is the first step in the establishment of a governing organization for the Yurok Tribe.

Authorities: 43 U.S.C. § 1457, 25 U.S.C. § 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262).)

DATES: This is a proposed rule on which comment is invited. Comments on this proposed rule must be received on or before April 5, 1979. Comments received will be carefully reviewed, and changes will be made where appropriate, prior to publication of the final rule.

ADDRESS: Send written comments to: Director, Office of Indian Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Director, Office of Indian Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, (202-343-2111).

Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California (916-484-4682).

SUPPLEMENTARY INFORMATION: On December 28, 1978, there was published for comment in the FEDERAL REGISTER (43 FR 60870) Proposed Qualifications for a Yurok Voting List. The establishment of standards for such a voting list is the first step in the election of an interim governing committee for the Yurok Tribe. The message of November 20, 1978, from the Assistant Secretary of the Interior—Indian Affairs to all the Hoopa and Yurok people of the Hoopa Valley Indian Reservation mentioned the preparation of a Yurok voters list as an essential part of the process of organizing the Yurok Tribe. It is evident from the comments received in response to the December 28, 1978, publication that the use which will be made of these qualifications is not clearly understood. For this reason, further explanations as well as modifications and additions to the proposed Qualifications are needed. The modifications and additions have resulted in these new proposed regulations. First of all, it should be understood that the Qualifications being considered are for voters who will elect an interim governing committee for the Yurok Tribe; these voters' qualifications are not membership qualifications. Membership qualifications will be set when a constitution is adopted by the Yurok voters at a separate election. A principal provision of such tribal constitution, as in every tribal constitution, will be the requirements for tribal membership, in this case for membership in the Yurok Tribe.

Thus the qualifications here being considered are not standards for membership in the Yurok Tribe. All these qualifications are intended to do is to insure that those who vote for the Yurok interim governing committee are a representative part of the Yurok Indians and have a reasonable expectation of ultimately being determined to be eligible for membership in the Yurok Tribe. As stated in the November 20, 1978, message from the Assistant Secretary—Indian Affairs it is expected that the Yurok membership roll will be constructed along lines similar to those used during the construction of the membership roll of the Hoopa Valley Tribe. Therefore, the proposed qualifications for Yurok voters are patterned along lines used in the development of the Hoopa Valley Tribes' membership. But this obviously does not mean that either all the voters or only the voters will be eligible for membership in the Yurok Tribe. Eligibility for such membership, instead, will depend upon meeting the membership criteria set out in a duly adopted and approved Yurok tribal constitution. For obvious reasons, including the fact that children do not vote, it never happens that a tribal constitution is adopted as the result of voter participation by all those who the constitution makes eligible for membership. And conversely, not all those who participate in the adoption of a tribal constitution ultimately are found eligible for tribal membership. These results occur because voter qualifications are not membership criteria, which are developed separately at a later date.

Another misunderstanding is the belief that the Department of the Interior's efforts to help organize a tribal government for the Yurok Tribe constitute interference with the court case entitled *Short, et al.* v. *United States,* No. 102-63, in the United States Court of Claims. This is not the case. What is involved here is a matter that lies outside that case: the organization of a tribal government for an Indian Tribe, which at present is without one.

What the extent of the interest of the Yurok Tribe is in the Hoopa Valley Indian Reservation is a separate question. How and when that question will be resolved are matters which should have input from the Yurok Tribe. This input depends upon there being a tribal organization. Of course, resolution of what the Yurok Tribe's interests are in the Reservation not only involves the Yurok Tribe but, inescapably, the Hoopa Valley Indian Tribe and the plaintiffs in the *Short* case. But the question of the Yurok Tribe's interest in the Hoopa Valley Indian Reservation exists whether or not the tribe has a tribal government. Without one, the tribe has no way in which to take part in the decision which, at some point, and in some way, must be made on its interest in the Reservation.

In sum, then, all the proposed Qualifications, as modified, will do is result in the selection of voters who will elect an interim Yurok governing committee which can then begin to work on all the issues which confront the Yurok Tribe.

As originally published the notice concerned only the qualifying criteria to be applied to voters participating in an election to select a temporary governing committee for the Yurok Tribe. Several significant changes have been made in the original publication. The first is the addition of a section of definitions. The next is the inclusion in proposed § 55.3 of specified categories of Yurok Indians to whom the proposed voters' criteria will be applied. This addition is essential to carry out the procedures for establishing the Yurok voters list which have been added in proposed §§ 55.4 through 55.7.

As noted previously, the Department is anxious to clarify any misunderstanding concerning its effort to assist in the creation of a Yurok tribal governing body. Because the Department wishes maximum Indian participation in the formulation of the final regulations and in order to provide the interested Indians maximum opportunity to ask any questions they wish concerning these proposed regulations, several public meetings will be scheduled on the Hoopa Valley Indian Reservation and in its immediate vicinity. Notices of these meetings will be published in local media and posted in public places at least five days before the meetings.

COMMENTS AND MODIFICATIONS IN PROPOSAL

1. A number of comments were received to the effect that the Secretary of the Interior lacks authority to establish the proposed Yurok voter qualifications. Some of these took the position that the authority is lacking because it involves a matter committed to the jurisdiction of the Court of Claims in *Short, et al.* v. *United States.* One further argued that if, nevertheless, the Secretary undertook to establish such qualifications, adjudicatory hearings should be afforded since, in effect, the qualifications involve the determination of specific rights of individuals, at least when it comes to the actual preparation of a voters list. Others objected to the proposed qualifications because there was no citation of authority for them in the December 28 publication. Still others said there was a failure to state the time, place, and nature of public rulemaking procedure as required by 5 U.S.C. 553.

The Secretary's authority for establishing the Qualifications is included in the general authority in Indian Affairs conferred upon him by 25 U.S.C. 2, 43 U.S.C. 1457, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262). As explained in the Supplementary Information, the proposed voters Qualifications for the Yurok Tribe do not infringe on the jurisdiction of the Court of Claims in the *Short* case. Since only general standards for voters are under consideration at this time, we do not agree that individual rights are at issue which need to be resolved in adjudicatory type hearings. As the proposed qualifications, as modified, with the newly added procedures for the preparation of the voters list clearly constitute rulemaking the applicable provisions of the Administrative Procedures Act and 43 CFR, Part 14—Rulemaking, 43 FR 58292, are being followed for these proposed rules.

2. A comment was received objecting to the organization of the Yurok Tribe instead of the organization of a single tribe for the Hoopa Valley Indian Reservation.

Whether a group of Indians exists as an Indian tribe is dependent upon its actual existence as a tribal group. See 25 CFR Part 54—Procedures for Establishing That An American Indian Group Exists As An Indian Tribe, particularly 25 CFR 54.7, 43 FR 39361, 39363. Whereas the Hoopa Valley and Yurok groups of Indians have been acknowledged as Indian tribes, *all* the Indians of the Hoopa Valley Indian Reservation have never been identified by the Department of Interior as a single tribe. The Yurok or Klamath River Tribe has been acknowledged to be an Indian tribe by the Department since at least 1904. See Klamath River Indian Reservation—Allotment—Act of June 17, 1892, 33 L.D. 205, 218-219 (1904). Since the Yuroks are acknowledged to be a tribe, they can clearly organize a tribal government. But since *all* the Indians of the Reservation are not acknowledged to be a tribe they have no basis for forming a tribal government.

3. One comment received was that the criteria for the Yurok voters list should be considerably more stringent than the tribal enrollment criteria adopted by the Hoopa Valley tribe. The comment specifically recommended that, if the criteria is intended to "track" the Hoopa enrollment standards, the basic date of eligibility should not have been October 1, 1949, but a date 25 years after the submission of the Hill allotment schedule in 1894. The basis for this argument is that the Hoopa Valley Tribe organized 25 years after the submission of the Mortsolf allotment schedule of 1918. The commentor went on to say that the proposed criteria did not adhere strictly to the Hoopa enrollment standards.

The organization of the Hoopa Valley Tribe 25 years following submission of the Mortsolf allotment schedule was a matter of happenstance, not design. The identification of members of the Hoopa Tribe begins with persons named on a roll of October 1, 1949. On the basis of the comments offered to date we see no reason why the identification of Yuroks for the purpose of voting for an interim governing committee should not be based on data of a comparable time in the history of the Reservation to that used by the Hoopa Valley Tribe when it began to organize. However, because they are separate tribal entities, it is not possible to "adhere strictly" to identical standards for both tribes.

The enrollment requirements of the Hoopa Valley Tribe are being used as a guideline in developing the voters' criteria for the Yurok Tribe for the reasons given in the Supplementary Information and because they seem to offer the best assurance that the Yurok Tribe will have a comparable organizational start with that which was afforded the Hoopa Valley Indian Tribe.

4. Several comments were submitted regarding the degree of Indian blood required for persons in certain categories. Some believe no minimum Indian blood degree should be required, some believe it should be not less than 1/32, and others believe all voters should be required to be of 1/4 degree Indian blood or 1/4 degree Yurok and/or Hoopa Indian blood.

Individuals who qualify for inclusion on the voters list under § 55.3(b) (1), (2) or (3) of the proposed criteria, as revised, do not have to possess a minimum degree of Indian blood. A notation to that effect has been inserted in the proposed criteria. The individuals who do have to possess at least 1/4 degree Indian blood are those who are not allottees or reservation residents eligible to be allotted and their descendants and persons born on or after October 2, 1949. These requirements are similar to eligibility requirements for enrollment in the Hoopa Valley Tribe.

5. As the result of several comments, the 15-year residence requirement in § 55.3(b)(4) of the revised proposal has been defined as a continuous period of 15 years at some time prior to October 1, 1949. This is consistent with requirements for enrollment on the Hoopa C roll.

6. Several persons commented that the term "Indian blood" was misleading and too inclusive, and others commented that "Yurok Indian blood" would be too restrictive.

While we are aware that the Yurok Tribe will include Indians of the blood of other tribes, as does the present Hoopa Valley Tribe, this was not made clear in the use of "Indian blood" in the proposed criteria. Therefore, we have defined "Indian blood" to include Yurok and/or Hoopa, Karok, Tolawa, Chilula, Wiyot and other groups of California Indians affiliated with the Hoopa Valley Indian Reservation, as extended.

7. One comment regarding descendants named in paragraph A(4) of the

proposed criteria was that mere descent from a Hoopa C roll member did not qualify an individual for enrollment at Hoopa, and therefore, mere descent from a person enrolled under A(3) should not qualify a person for the Yurok voters list.

We agree with the comment and the proposed criteria have been revised to provide for a minimum ¼ degree Indian blood requirement for persons who are descendants of individuals qualified under former paragraph A(3), now § 55.3(b)(4).

8. A number of interested persons expressed the belief that census rolls should be utilized in identifying the eligible voters rather than the allotment rolls.

We have not modified the proposed qualifications to include this provision but have it under consideration and further comment is invited.

9. Many comments were received regarding what constitutes being eligible to receive an allotment.

Instructions to Special Allotting Agent Ambrose H. Hill to make allotments to the Indians located on the former Klamath River Reservation and on the strip of country between that reservation and the Hoopa Valley Reservation specified that "No Indian is entitled to an allotment unless he is located on said reservation on the 17th of June, 1892." These instructions were to apply also to the allotments on the connecting strip. We have, therefore, defined "eligible to receive allotments" to include persons who resided on the former Klamath River reservation or the connecting strip on June 17, 1892, and persons who resided on the Hoopa Valley Indian Reservation on June 25, 1910, the date of the authorizing Act.

10. One comment received expressed the belief that the minimum blood degree requirement imposed on persons born on or after October 2, 1949, is inconsistent with our November 20, 1978, message.

It does not conflict with the message which, while not specifying criteria for voters, stated to the extent possible the Yurok membership would be constructed along lines similar to those of the Hoopa Valley Tribe. See the Supplementary Information for further explanation of why these qualifications are being proposed.

11. Several persons commented that we should not have omitted as resource documents the declarations of the claimants in *Jessie Short, et al.*, v. *United States.*

It was not our intent to ignore the information reflected in the declarations. On the contrary, that information will be used by the Sacramento Area Director in determining who shall be on the initial voters list prepared pursuant to proposed § 55.4.

12. Many people stated their opinion that we are unreasonable in our statement to the effect that being included on the voting list will not necessarily qualify an individual for future membership.

As discussed in the Supplementary Information the list to be prepared under the proposed criteria will not be a membership roll of the Yurok Tribe. Therefore, being placed on the voters list will not guarantee that a person will ultimately qualify for membership in the Yurok Tribe.

13. Along the same vein, one person commented that enrollment with any other tribe should disqualify a voter.

To date we believe membership in another tribe, except the Hoopa Valley Tribe, should not be a bar to voting for an interim tribal governing committee. Dual enrollment is a matter for the committee to consider when drafting criteria for membership.

14. Several individuals requested that the phrase "descendants of allottees *and* reservation residents" in paragraph A(4) of the proposed criteria be changed to read "descendants of allottees *or* reservation residents."

It is our intent that the criteria specified in proposed paragraph A(4) (now § 55.3(b)(3), apply to descendants of allottees *and* descendants of reservation residents. We believe changing the "and" to "or" might lead someone to misinterpret the criteria to mean descendants of allottees and the reservation residents, not their descendants. We have, therefore, declined to make the change.

In late January, 1979, the Department concluded its environmental assessment under the National Environmental Policy Act of 1969. Upon review of that assessment it has been concluded that the proposed organization of the Yurok Tribe is not a major federal action which would significantly affect the environment within Section 102(2)(c) of the Act. Accordingly, the preparation of an environmental impact statement is not required. The assessment is available for review at the Sacramento Area Office of the Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. (916-484-4682). The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary authors of this document are Theodore C. Krenzke, Director, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. (202-343-2111), Duard R. Barnes, Assistant Solicitor, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, Washington, D.C. (202-343-9405), and Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, Washington, D.C. 20245 (703-235-8275).

Subchapter G of Chapter I of Title 25 of the Code of Federal Regulations is amended by the addition of a new Part 55 to read as follows:

PART 55—ORGANIZATION OF THE YUROK TRIBE—VOTING FOR INTERIM GOVERNING COMMITTEE

Sec.
55.1 Definitions.
55.2 Purpose.
55.3 Qualifications for voting.
55.4 Preparation and posting of initial voters list.
55.5 Notice to ineligible adults.
55.6 Appeals.
55.7 Final voters list.

AUTHORITY: 5 U.S.C. § 301, R. S. § 463 and 465, 43 U.S.C. § 1457, 25 U.S.C. §§ 2 and 9, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

§ 55.1 Definitions.

(a) "Voters" means persons eligible to participate in the nomination and election of an interim Yurok tribal governing committee.

(b) "Interim Yurok tribal governing committee" means a committee of persons nominated from and by the voters and elected by the voters to serve as the temporary governing body of the Yurok Tribe, with special responsibility for drafting a tribal constitution for ratification by the tribe and approval by the Secretary of the Interior.

(c) "Adult" means a person 18 years of age or older.

(d) "Reservation" means the Hoopa Valley Indian Reservation, as extended.

(e) "Indian blood" shall include the blood of the Yurok and/or Hoopa, Karok, Tolawa, Chilula, Wiyot and other groups of California Indians affiliated with the Hoopa Valley Indian Reservation, as extended.

(f) "Living" means born on or prior to and living on the date specified.

(g) "Eligible to receive allotments" means that the individual concerned resided on the original Klamath River Reservation or the connecting strip on June 17, 1892, or on the Hoopa Valley Indian Reservation on June 25, 1910.

(h) "Descendants" means persons who have issued from an ancestor and includes that ancestor's children, grandchildren, etc. It does not include collateral relatives such as brothers, sisters, nieces, nephews or cousins.

(i) "Secretary" means the Secretary of the Interior or his authorized representative.

(j) "Director" means the Area Director, Bureau of Indian Affairs, Sacramento Area Office, or his authorized representative.

§ 55.2 Purpose.

The purpose of these regulations is to establish qualifications for voting and procedures for preparing a list of voters to vote in a Secretarial election for an interim Yurok tribal governing committee.

§ 55.3 Qualifications for voting.

Adults living on the date of the election who meet the following qualifications shall be eligible to participate in the nomination and election of the Yurok interim tribal governing committee:

(a) Those whose names are included:

(1) As plaintiffs in *Jessie Short, et al.,* v. *United States,* No. 102-63, in the United States Court of Claims; or

(2) As plaintiffs in *Charlene Ackley, et al.,* v. *United States,* No. 460-78, in the United States court of Claims; or

(3) On the list of Allottees and direct descendants of allottees on the Hoopa Extension Reservation, prepared by the Hoopa Area Field Office in August 1976, *and* who are:

(b) Persons living on October 1, 1949, who

(1) Were allotted on the Reservation [no minimum degree of Indian blood required]; or

(2) Resided on the Reservation and were eligible to receive allotments but were not allotted [no minimum degree of Indian blood required]; or

(3) Are descendants of allottees and reservation residents who qualify, or if deceased before October 1, 1949, would have qualified under (1) or (2) above [no minimum degree of Indian blood required] or;

(4) Possess at least ¼ degree Indian blood, resided on the Reservation for a continuous period of 15 years at some time prior to October 1, 1949, and one of whose ancestors was born to parents who resided on the Reservation at the time of the ancestor's birth; or

(5) Possess at least ¼ degree Indian blood and are descendants of persons who qualify under (4) above; or

(c) Persons of at least ¼ degree Indian blood, born between October 2, 1949, and a date 18 years before the date of the election to individuals who qualify under the criteria in paragraphs (b) (1), (2), (3), (4), or (5) above.

(d) Persons who are enrolled as members of the Hoopa Valley Tribe shall not be entitled to be included on the voting list, regardless of whether they are otherwise qualified.

§ 55.4 Preparation and posting of initial voters list.

The Director shall review the lists specified in § 55.3(a) and compile an initial voters list comprised of the names of all adults found by him to met the criteria specified in § 55.3 (b) or (c). Upon completion the initial voters list shall be posted for inspections by interested persons. The list shall be posted in all Bureau of Indian Affairs field offices, Indian Centers throughout the country and in Post Offices and other places on or near the Hoopa Valley Indian Reservation where the Indian population congregates. The Area Director shall publicize the posting of the list and the locations where it may be reviewed.

§ 55.5 Notice to ineligible adults.

Adults named on the lists specified in § 55.3(a) who the Director determines are not qualified under § 55.3 (b) or (c) for the initial list of voters shall be notified by the Director by certified mail, return receipt requested, why they were found to be ineligible for the voters list. The notice shall state clearly the reasons for their ineligibility and advise them of their right to appeal pursuant to § 55.6 of this part.

§ 55.6 Appeals.

(a) An appeal shall be filed within 20 days from the date of receipt of the notice of ineligibility. The appeal shall be sent to the Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, and shall be considered filed as of the date received in that office. Appeals received after the 20-day appeal period shall be denied as untimely.

(b) Upon receipt of an appeal under paragraph (a) of this section, the Director shall examine it. If he finds that the appeal establishes that the appellant meets the qualifications specified in § 55.3 the Director shall add the appellant's name to the voters list. If the Director is not satisfied that the appellant meets the criteria the appeal and all related documents shall be forwarded to the Secretary of the Interior for a final determination. The appellant shall be advised in writing of the action taken on his appeal.

§ 55.7 Final voters list.

upon completion of review and determination of appeals a final voters list containing the names of all persons who meet the criteria and deadline for applying shall be prepared and made available for use in conducting the election of an interim Yurok tribal governing committee.

No further changes are made in the text of this Part.

Dated: February 22, 1979.

FORREST J. GERARD,
Assistant Secretary—
Indian Affairs

[FR Doc. 79-6737 Filed 3-5-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 31]

[LR-36-78]

EMPLOYMENT TAXES WITH RESPECT TO EMPLOYEES OF RELATED CORPORATIONS

Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to employment taxes with respect to employees of related corporations.

DATES: The public hearing will be held on April 5, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 22, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-36-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 3121(s) and 3306(p) of the Internal Revenue Code of 1954. The proposed regulations appeared in the FEDERAL REGISTER for Wednesday, December 13, 1978, at page 58199 (43 FR 58199).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 22, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 79-6582 Filed 3-5-79; 8:45 am]

[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[45 CFR Part 233]

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

Inclusion of Child Receiving Old-Age, Survivors, or Disability Insurance Benefits Into an AFDC Assistance Unit

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations to codify Federal policy previously issued in State Letter 1088, September 25, 1970. Although State Letters were rescinded on April 15, 1975, this policy has never been issued as a regulation.

The proposed regulation will reaffirm an AFDC caretaker's option to include in the AFDC assistance until a child who receives Old-Age, Survivors, and Disability Insurance (OASDI) benefits, under Title II of the Social Security Act, even when such benefits are sufficient to meet the child's needs under the State's AFDC payment standard. If the child is included in the assistance unit, the OASDI benefits will be considered income to the family.

The proposed policy will amend 45 CFR 233.20.

The Department has classified this regulation as policy significant.

FOR FURTHER INFORMATION, CONTACT:

Mrs. Connie Katz, 4124 MES, 330 C Street, S.W., Washington, D.C. 20201, (202) 245-0982.

Dated: January 29, 1979.

Approved:

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 79-6740 Filed 3-5-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 670]

CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

AGENCY: National Science Foundation.

ACTION: Proposed Regulations.

SUMMARY: The National Science Foundation proposes regulations to conserve and protect animals and plants native to Antarctica, pursuant to the Antarctic Conservation Act of 1978, Public Law 95-541. These regulations would apply to all United States citizens in Antarctica and to everyone importing into or exporting from the United States designated Antarctic animals and certain Antarctic plants or parts of them. The purpose of the regulations is to protect Antarctic ecological systems in accordance with measures which have been internationally established. Civil and criminal penalties for non-compliance are provided in the Act.

These regulations would designate native animals and plants and designate areas where activities are restricted. They would also establish a system of permits to take native animals, to collect certain plants, to import into or export from the United States Antarctic animals and certain Antarctic plants, to introduce non-indigenous species into Antarctica, and to restrict entry into certain areas of Antarctica.

Measures to restrict the discharge and disposal of pollutants in Antarctica will be the subject of separate regulations at a later date.

DATES: Comments must be received by May 7, 1979.

ADDRESS: Submit comments to the Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward P. Todd, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone: 202-632-4024.

SUPPLEMENTARY INFORMATION: The primary purpose of the Antarctic Conservation Act is to implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora". The Agreed Measures were developed by the Antarctic Treaty Consultative Parties under the Antarctic Treaty of 1959. The Agreed Measures recommend establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. These proposed regulations meet the requirements of the Agreed Measures and related measures recommended under the Treaty.

Subpart A of these proposed regulations sets forth their purpose and scope and defines terms used in these regulations. Prohibited acts and exceptions to them are discussed in Subpart B. The proposed procedures for obtaining a permit and the terms and conditions of such permits are set forth in Subpart C. Subpart D would designate as native mammals or native birds all mammals and birds found in Antarctica, except whales regulated by the International Whaling Commission. Activities involving these designated mammals or birds require a permit. More restrictive requirements for mammals and birds designated as Specially Protected Species are set forth in Subpart E. Areas of outstanding ecological interest would be designated as Specially Protected Areas in Subpart G. No one may enter these areas or collect any native plants in these areas without a permit. Native plants would be designated in Subpart F. Animal and plant fossils are not covered by these regulations. Areas of unique scientific value that need protection from interference would be designated as Sites of Special Scientific Interest in Subpart H. Entry into certain of these areas without a permit is also prohibited. Conditions under which Antarctic animals and birds and certain Antarctic plants may be imported into or exported from the United States are set forth in Subpart I. Finally, Subpart J sets forth conditions where the introduction into Antarctica of non-indigenous plants and animals would be permitted.

The Antarctic Conservation Act does not supersede the requirements of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, or the Migratory Bird Treaty Act. Applications for permits involving native mammals or native birds covered by those acts will be forwarded to the agencies that administer them. If they disapprove the application, no permit will be issued under these regulations. If the permit is approved by the appropriate agency, the Director still must determine whether to issue a permit pursuant to these regulations. Civil and criminal penalties may be imposed not only under the other acts but also under the Antarctic Conservation Act.

The Director has determined that these proposed regulations, when instituted, will not be a major Federal action requiring the preparation of an environmental impact statement. It has been determined further that these proposed regulations do not require a regulatory impact analysis under Executive Order 12044.

It is proposed to amend Title 45 of the Code of Federal Regulations by adding Part 670 which reads as set forth below:

PART 670—CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Subpart A—Introduction

Subpart B—Prohibited Acts, Exceptions

Subpart C—Permits

Subpart D—Native Mammals and Native Birds

Subpart E—Specially Protected Species of Mammals and Birds

Subpart F—Native Plants

Subpart G—Specially Protected Areas

Subpart H—Sites of Special Scientific Interest

Subpart I—Import Into and Export From the United States

Subpart J—Introduction of Non-Indigenous Plants and Animals

AUTHORITY: Sec. 11, Pub. L. 81-507, 64 Stat. 149 (42 U.S.C. 1870) as amended; Pub. L. 95-541, 92 Stat. 2048 (16 U.S.C. 2401).

Subpart A—Introduction

§ 670.1 Purpose of regulations.

The purpose of these regulations is to conserve and protect the native mammals, native birds and native plants of Antarctica and the ecosystem upon which they depend and to implement the Antarctic Conservation Act of 1978, Public Law 95-541.

§ 670.2 Scope.

These regulations apply to (a) Taking any mammal or bird native to Antarctica,

(b) Collecting any plant native to Antarctica in a specially protected area,

(c) Entering any specially protected area or site of special scientific interest,

(d) Importing into or exporting from the United States any mammal or bird native to Antarctica or any plant collected in a specially protected area, and

(e) Introducing into Antarctica any nonindigenous plant or animal.

§ 670.3 Definitions.

In this Part:

"Act" means the antarctic Conservation Act of 1978, Public Law 95-541, 92 Stat. 2048 (16 U.S.C. 2401 et seq.)

"Agreed Measures" means the Agreed Measures for the Conservation of Antarctic Fauna and Flora, as recommended for approval at the Third Antarctic Treaty Consultative Meeting, and as amended in accord with Article IX (1) of the Treaty.

"Antarctica" means the area south of 60 degrees south latitude.

"Collect" means to cut, sever, or move any native plant, or to attempt to engage in any such action.

"Director" means the Director of the National Science Foundation, or an officer or employee of the Foundation designated by the Director.

"Foreign person" means any individual who is a citizen or national of a foreign nation; any corporation, partnership, trust, association or other legal entity existing or organized under the laws of a foreign nation; any department, agency, or other instrumentality of any foreign nation and any office, employee, or agent of any such instrumentality.

"Management plan" means the restrictions applicable to activities in Sites of Special Scientific Interest.

"Native bird" means a member of any species of the class *Aves*, which is indigenous to Antarctica or occurs there through natural agencies of dispersal that is designated in Subpart D of this Part. It includes any part, product, egg, or offspring of or the dead body or parts thereof excluding fossils.

"Native mammal" means a member of any species of the class Mammalia, except species regulated by the International Whaling Commission, which is indigenous to Antarctica or occurs there through natural agencies of dispersal that is designated in Subpart D of this Part. It includes any part, product, egg, or offspring of or the dead body or parts excluding fossils.

"Native plant" means any kind of vegetation at any stage of its life cycle indigenous to Antarctica or occurring there through natural agencies of dispersal, including seeds but excluding fossils, that is designated in Subpart F of this Part.

"Site of Special Scientific Interest" means an area of unique value for scientific investigation designated in Subpart H of this Part as needing protection from interference.

"Specially Protected Area" means an area of outstanding scientific or ecological interest designated in Subpart C of this Part.

"Specially Protected Species" means any species of native mammal or native bird that is approved by the United States for special protection under the Agreed Measures and is designated in Subpart E of this Part.

"Take" means to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag any native mammal or native bird, or to attempt to engage in such conduct.

"Treaty" means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959.

"United States" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, including the Government of the Northern Mariana Islands.

"United States citizen" means any individual who is a citizen or national of the United States; any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; any department, agency, or

other instrumentality of the Federal Government or of any State; and any officer, employee, or agent of any such entity or instrumentality.

Subpart B—Prohibited Acts, Exceptions

§ 670.4 Prohibited acts.

Unless a permit has been issued pursuant to Subpart C or unless one of the exceptions stated in §§ 670.5 through 670.7 of this title is applicable, it is unlawful to commit, attempt to commit, or cause to be committed any of the acts described in paragraphs (a) through (h) of this section.

(a) *Taking any native mammal or native bird*—It is unlawful for any United States citizen to take within Antarctica any native mammal or native bird.

(b) *Collecting native plants*—It is unlawful for any United States citizen to collect a native plant in a specially protected area.

(c) *Entry into designated area*—It is unlawful for any United States citizen to enter any specially protected area or to enter certain sites of special scientific interest.

(d) *Possession and transfer of native mammals, plants or birds*—It is unlawful for any United States citizen wherever located or any foreign person while within the United States to possess, sell, offer for sale, deliver, receive, carry, transport, or ship by any means whatever any native plant collected in a specially protected area, or any native mammal or native bird taken in Antarctica.

(e) *Import into or export from the United States*—It is unlawful for any United States citizen wherever located or any foreign person while within the United States to import into the United States or export from the United States any native mammal or native bird or any native plant collected in a specially protected area.

(f) *Introduction of non-indigenous animals and plants into Antarctica*—It is unlawful for any United States citizen to introduce into Antarctica any animal or plant that is not indigenous to Antarctica as specified in Subpart J of this Part, except as provided in § 670.7 of this title.

(g) *Violation of regulations*—It is unlawful for any United States citizen wherever located or any foreign person while within the United States to violate the regulations set forth in this Part.

(h) *Violation of permit conditions*—It is unlawful for any permit holder, whether or not a United States citizen, to violate any term or condition of any permit issued under Subpart C of this Part.

§ 670.5 Exceptions in extraordinary circumstances.

(a) *Human life*—No act described in § 670.4 of this title shall be unlawful if committed under emergency circumstances to prevent the loss of human life.

(b) *Aiding or salvaging native mammals or native birds*—The prohibition on taking shall not apply to taking native mammals or native birds if such action is necessary to:

(1) Aid a sick, injured, or orphaned specimen;

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study.

(c) *Reporting*—Any actions taken under the exceptions in this section shall be reported promptly to the Director.

§ 670.6 Prior possession exception.

(a) *Exception*—§ 670.4 of this title shall not apply to (1) any native mammal, bird or plant which is held in captivity on or before October 28, 1978, or (2) any offspring of any such mammal, bird, or plant.

(b) *Presumption*—With respect to any prohibited act set forth in § 670.4 of this title which occurs after April 29, 1979, the Act creates a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity or or before October 28, 1978, or was not an offspring referred to in paragraph (a) of this section.

§ 670.7 Food exception.

Paragraph (f) of § 670.4 of this title shall not apply to the introduction of animals and plants into Antarctica for use as food so long as animals and plants used for this purpose are kept under controlled conditions. This exception shall not apply to living non-indigenous species of birds.

§ 670.8 [Reserved]

Subpart C—Permits

§ 670.9 Applications for permits.

(a) *General content of permit applications*—All applications for a permit shall be dated and signed by the applicnt and shall contain the following information:

(1) The name and address of the applicant;

(i) Where the applicant is an individual, the business or institutional affiliation of the applicant; and

(ii) Where the applicant is a corporation, firm, partnership, institution, or agency, either private or public, the name and address of its president or principal officer.

(2) The scientific names and the numbers of native plants to be collected in a specially protected area; or the scientific names and the numbers of native mammals or native birds to be taken;

(3) A description of the native mammals, native birds, or native plants to be taken or collected, including as appropriate the age, size, sex, and condition, e.g., whether pregnant or nursing;

(4) A complete description of the location, time period, and manner of taking or collecting, including the proposed access to the location;

(5) Whether the native mammals, birds, or plants, or parts of them are to be imported into the United States, and if so, their ultimate disposition;

(6) Where the application is for the introduction of non-indigenous plants and animals, the scientific name and the number to be introduced;

(7) The names and qualifications of agents referred to in § 670.12 of this section; and

(8) The desired effective date of the permit.

(b) *Content of specific permit applications*—In addition to the general information required for permit applications set forth in this subpart, the applicant must submit additional information relating to the specific action for which the permit is being sought. These additional requirements are set forth in the sections of this part dealing with the subject matter of the permit applications as follows:

Native Mammals and Native Birds—§ 670.16.
Specially Protected Species—§ 670.21.
Native Plants—§ 670.25.
Specially Protected Areas—§ 670.29.
Sites of Special Scientific Interest—§ 670.33.
Import into or Export from the U.S.—§ 670.38.
Introduction on Non-Indigenous Plants and Animals—§ 670.42.

(c) *Certification*—Applications for permits shall include the following certification:

I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. Any false statement will subject me to the criminal penalties of 18 U.S.C. 1001.

(d) *Address to which applications should be sent*—Each application shall be in writing, addressed to: Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

(e) *Sufficiency of application*—The sufficiency of the application shall be determined by the Director. The Director may waive any requirement for information, or require such additional information as determined to be relevant to the processing of the application.

(f) *Withdrawal*—An applicant may withdraw the application at any time.

(g) *Publication of permit applications*—The Director shall publish notice in the FEDERAL REGISTER of each application for a permit. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

§ 670.10 General issuance criteria.

Upon receipt of a complete and properly-executed application for a permit and the expiration of the applicable public comment period, the Director will decide whether to issue the permit. In making this decision, the Director will consider, in addition to the specific criteria set forth in the appropriate subparts of this Part:

(a) Whether the authorization requested meets the objectives of the Act and the requirements of these regulations;

(b) The judgment of persons having expertise in matters germane to the application; and

(c) Whether the applicant has failed to disclose material information required or has made false statements about any material fact in connection with his application.

§ 670.11 Permit administration.

(a) *Issuance of permits*—The Director may approve an application in whole or in part. Permits shall be issued in writing and be signed by the Director. Each permit may contain such terms and conditions as are consistent with the Act and this Part.

(b) *Denial*—The applicant shall be notified in writing of the denial of any permit request or part of a request, and the reason for such denial. If authorized in the notice of denial, the applicant may submit further information, or reasons why the permit should not be denied. Such further submissions shall not be considered a new application.

(c) *Amendment of applications or permits*—An applicant or permit holder desiring to have any term or condition of his application or permit modified must submit full justification and supporting information in conformance with the provisions of this subpart and the subpart governing the activities sought to be carried out under the modified permit. Any application for modification of a permit that involves a material change beyond the terms originally requested will normally be subject to the same procedures as a new application.

(d) *Notice of issuance or denial*—Within 10 days after the date of the issuance or denial of a permit, the Director shall publish notice of the issuance or denial in the FEDERAL REGISTER.

(e) *Agents of the permit holder*—The Director may authorize the permit holder to designate agents to act on behalf of the permit holder.

(f) *Marine mammals, endangered species and migratory birds*—If the Director receives a permit application involving any native mammal which is a marine mammal as defined by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5)), any species which is an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.), the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate. If the appropriate Secretary determines that a permit should not be issued pursuant to any of the cited acts, the Director shall not issue a permit. The Director shall inform the applicant of any denial by the appropriate secretary and no further action will be taken on the application. If, however, the appropriate Secretary issues a permit pursuant to the requirements of the cited acts, the Director still must determine whether the proposed action is consistent with the Act and these regulations.

§ 670.12 Conditions of permits.

(a) *Possession of permits*—Permits issued under these regulations, or copies of them, must be in the possession of persons to whom they are issued and their agents when conducting the authorized action.

(b) *Display of permits*—Any permit issued shall be displayed for inspection upon request to the Director, designated agents of the Director, or any person with enforcement responsibilities.

(c) *Filing of reports*—Permit holders may be required to file reports of the activities conducted under a permit. Reports shall be submitted to the Director not later than June 30 for the preceding 12 months.

§ 670.13 Modification, suspension, and revocation.

(a) The Director may modify, suspend, or revoke, in whole or in part, any permit issued under this section—

(1) In order to make the permit consistent with any change to any regulation in this part made after the date of issuance of the permit;

(2) If there is any change in conditions which makes the permit inconsistent with the purpose of the Act and these regulations; or

(3) In any case in which there has been any violation of any term or condition of the permit, any regulation in this part, or any provision of the Act.

(b) Whenever the Director proposes any modifications, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation.

(c) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the FEDERAL REGISTER within 10 days from the date of the Director's decision.

§ 670.14 [Reserved]

Subpart D—Native Mammals and Native Birds

§ 670.15 Specific issuance criteria.

With the exception of specially protected species of mammals and birds designated in Subpart E of this part, permits to take a mammal or bird in Antarctica designated as a native mammal in § 670.17 or as a native bird in § 670.18 may be issued:

(a) Only for the purpose of providing (i) Specimens for scientific study or scientific information, or

(ii) Specimens for Museums, zoological gardens, or other educational or cultural institutions or uses;

(b) Shall ensure, as far as possible, that (i) No more native mammals or native birds are taken in any year than can normally be replaced by natural reproduction in the following breeding season, and

(ii) The variety of species and the balance of the natural ecological systems within Antarctica are maintained; and

(iii) The authorized taking, transporting, carrying, or shipping of any native mammal or native bird is carried out in a humane manner.

§ 670.16 Contents of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to take a native mammal or native bird shall include a complete description of the project including the purpose of the proposed taking, the use to be made of the native mammals or native birds, and the ultimate disposition of the native mammals or native birds. Sufficient information must be provided to establish that the taking, transporting, carrying, or shipping will be humane.

§ 670.17 Designation of native mammals.

The following are designated native mammals:

Dolphin:
Hourglass *Lagenorhynchus cruciger.*
Seal:
Crabeater *Lobodon carcinophagus.*
Elephant *Mirounga leonina.*
Kerguelen Fur *Arctocephalus gazella.**
Leopard *Hydrurga leptonyx.*
Ross *Ommatophoca rossi.**
Weddell *Leptonychotes weddelli.*
Whale:
Arnoux's Beaked *Berardius arnuxii.*
Killer *Orcinus orca.*
Long-finned Pilot *Globicephala melaena.*
Southern Bottlenose *Hyperoodon planifrons.*

§ 670.18 Designation of native birds.

The following are designated native birds:

Albatross:
Black-browed *Diomedea melanophris.*
Gray-headed *Diomedea chrysostoma.*
Light-mantled Sooty *Phoebetria palpebrata.*
Wandering *Diomedea exulans.*
Fulmar:
Northern Giant *Macronectes halli.*
Southern *Fulmarus glacialoides.*
Southern Giant *Macronectes giganteus.*
Gull:
Southern Black-backed *Larus dominicanus.*
Jaeger:
Parasitic *Stercorarius parasiticus.*
Pomarine *Stercorarius pomarinus.*
Penguin:
Adelie *Pygoscelis adeliae.*
Chinstrap *Pygoscelis antarctica.*
Emperor *Aptenodytes forsteri.*
Gentoo *Pygoscelis papua.*
King *Aptenodytes patagonicus.*
Macaroni *Eudyptes chrysolophus.*
Rockhopper *Eudyptes crestatus.*
Petrel:
Antarctic *Thalassoica antarctica.*
Black-bellied Storm *Fregetta tropica.*
Blue *Halobaena caerulea.*
Gray *Procellaria cinerea.*
Great-winged *Pterodroma macroptera.*
Kerguelen *Pterodroma brevirostris.*
Mottled *Pterodroma inexpectata.*
Snow *Pagodroma nivea.*
Soft-plumaged *Pterodroma mollis.*
South-Georgia Diving *Pelecanoides georgicus.*
White-bellied Storm *Fregetta grallaria.*
White-chinned *Procellaria aequinoctialis.*
White-headed *Pterodroma lessoni.*
Wilson's Storm *Oceanites oceanicus.*
Pigeon:
Cape *Daption capense.*
Pintail:
South American Yellow-billed *Anas georgica spinicauda.*
Prion:
Antarctic *Pachyptila desolata.*
Narrow-billed *Pachyptila belcheri.*
Shag:
Blue-eyed *Phalacrocorax atriceps.*
Shearwater:
Sooty *Puffinus griseus.*
Skua:
Brown *Catharacta lonnberigi.*
South Polar *Catharacta maccormicki.*
Swallow:
Barn *Hirundo rustica.*
Sheathbill:
American *Chionis alba.*
Tern:
Antarctic *Sterna vittata.*
Arctic *Sterna paradisaea.*

*These species of mammals have been designated as specially protected species and are subject to Subpart E of this part.

§ 670.19 [Reserved]

Subpart E—Specially Protected Species of Mammals and Birds

§ 670.20 Specific issuance criteria.

Permits authorizing the taking of mammals or birds designated as a specially protected species of mammals and birds in § 670.22 may only be issued if

(a) There is a compelling scientific purpose for such taking;

(b) The actions allowed under any such permit will not jeopardize the existing natural ecological system, or the survival of that species; and

(c) The authorized taking, transporting, carrying, or shipping of any native mammal or native bird is carried out in a humane manner.

§ 670.21 Content of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to take a specially protected species shall include the following in the application:

(a) A detailed scientific justification of the need for taking the specially protected species, including a discussion of possible alternative species;

(b) Information demonstrating that the proposed action will not jeopardize the existing natural ecological system or the survival of that species; and

(c) Information establishing that the taking, transplanting, carrying, or shipping of any native mammal or native bird is carried out in a humane manner.

§ 670.22 Designation of specially protected species of mammals and birds.

The Act states that the Director shall designate as a specially protected species any native species of mammal or bird which is approved by the United States for special protection under the Agreed Measures. The following two species have been so approved and are hereby designated specially protected species:

Common Name and Scientific Name
Kerguelen Fur Seal *Arctocephalus tropicales gazella.*
Ross Seal *Ommatophoca rossi.*

§ 670.23 [Reserved]

Subpart F—Native Plants

§ 670.24 Specific issuance criteria.

Permits authorizing the collection of any native plant designated in § 670.26 of this title from a specially protected area designated in § 670.30 of this title may be issued only if

(a) There is a compelling scientific purpose for such collection which cannot be served elsewhere, and

(b) The actions allowed under any such permit will not jeopardize the natural ecological system existing in that area.

§ 670.25 Content of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to collect a native plant in a specially protected area shall include the following in the application:

(a) A detailed scientific justification of the need for the collection, including a discussion of alternatives; and

(b) Information demonstrating that the proposed action will not jeopardize the unique natural ecological system existing in that area.

§ 670.26 Designation of native plants.

All plants found in Antarctica are designated native plants, including:

Fungi	Lichens
Vascular Plants	Marine algae
Bryophytes	Freshwater algae

§ 670.27 [Reserved]

Subpart G—Specially Protected Areas

§ 670.28 Specific issuance criteria.

Permits authorizing entry into any specially protected area designated in § 670.30 of this title may be issued only if (a) There is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(b) The actions allowed under any such permit will not jeopardize the natural ecological system existing in that area.

No permit shall be issued that allows the operation of any surface vehicle in a specially protected area.

§ 670.29 Content of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to enter a specially protected area shall include the following in the application:

(a) A detailed scientific justification of the need for such entry, including a discussion of alternatives; and

(b) Information demonstrating that the proposed action will not jeopardize the unique natural ecological system existing in that area.

§ 670.30 Designation of specially protected areas.

The Act states the Director shall designate as a specially protected area, each area identified under the Agreed measures as needing special protection. The following areas have been so identified and are designated as specially protected areas:

(a) Taylor Rookery, MacRobertson Land situated at Latitude 67° 26' South, Longitude 60° 50' East

(b) Rookery Islands in Holme Bay

(c) Ardery Island and Odbert Island in Vincennes Bay

(d) Sabrina Island and Balleny Islands in the Ross Sea

(e) Beaufort Island in the Ross Sea

(f) Cape Hallett in Victoria Land

(g) Dion Islands in Marguerite Bay

(h) Green Island in the Berthelot Islands

(i) Cape Shirreff on Livingston Island

(j) Moe Island in the South Orkney Islands

(k) Lynch Island in the South Orkney Islands

(l) Powell Island (southern portion only), Fredriksen Island, Michelsen Island, Christofferson Island, Grey Island and all unnamed islands within one mile of these islands; all of which are part of the South Orkney Islands

(m) Coppermine Peninsula on Robert Island

(n) Litchfield Island in the Palmer Archipelago Maps specifying these areas in greater detail may be obtained from the Director.

§ 670.31 [Reserved]

Subpart H—Sites of Special Scientific Interest

§ 670.32 Specific issuance criteria.

Sites of Special Scientific Interest, designated in § 670.34, are sites where scientific investigations are being conducted or are planned and there is a demonstrable risk of interference which would jeopardize those investigations. Certain of these sites do not require limitations on entry to protect their value for scientific investigations. No permit is required for entry into these sites but entrants must comply with the management plan. Permits to enter sites for which an entry permit is required may be issued only if the proposed entry is consistent with the management plan.

§ 670.33 Content of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to enter a site of special scientific interest shall include the following in the applications:

(a) The justification for such entry;

(b) Information demonstrating that the proposed action will not jeopardize the unique scientific value of the area; and

(c) A statement demonstrating the consistency of the proposed action with the management plan.

§ 670.34 Designation of sites of special scientific interest and management plans for those sites.

The Act states that the Director shall designate as a site of special scientific interest each are approved by the United States in accordance with Recommendation VIII-3 of the Eighth Antarctic Treaty Consultative Meeting. The Act also requires the Director to prescribe a management plan for such sites which is consistent with any management plan approved by the United States in accordance with that Recommendation. Accordingly, the following areas are designated as sites of special scientific interest to be managed in accordance with the management plan set forth after each designation:

(a) *Sites of Special Scientific Interest Requiring a Permit for Entry.*

(1) (i) Cape Royds on Ross Island, (ii) Cape Crozier on Ross Island, and (iii) Haswell Island Management Plan. Entry by foot only for scientific purposes will be authorized. Pedestrians may not move through areas populated by birds except as necessary in the course of scientific investigations. A compelling scientific purpose must be demonstrated before a permit will be issued to take a native bird from this Site.

(2) Fildes Peninsula on King George Island Management Plan. The operation of surface vehicles and the landing of helicopters are not permitted within the Site except in an emergency. No buildings or other facilities may be erected on this Site. No rock samples may be obtained unless authorized in the entry permit. Such authorization shall be given only for compelling scientific purposes.

(3) Byers Peninsula on Livington Island Management Plan. The operation of surface vehicles is not permitted within the Site except in an emergency. No buildings or other facilities may be erected on this Site. No rock samples may be obtained unless authorized in the entry permit. Such authorization shall be given only for compelling scientific purposes.

(4) Barwick Valley in Victoria Land Management Plan. Entry on foot only will be authorized. Overflight is not permitted. Permanent field camps, landfill disposal, and other activities which would introduce new materials or organisms, including microorganisms, into the Site are not permitted. All materials carried into the Site shall be removed.

(b) *Sites of Special Scientific Interest not Requiring a Permit for Entry.*

(1) Arrival Heights on Ross Island Management Plan. Vehicles and pedestrains shall keep to designated tracks. No radio frequency transmitting equipment other than low power transceivers for local essential communication may be installed within the Site.

(c) *Maps.*—Maps identifying the designated Sites of Special Scientic Interest in greater detail are available from the Director.

§ 670.35 [Reserved]

Subpart I—Import Into and Export From the United States

§ 670.36 Specific issuance criteria for imports.

Subject to compliance with other applicable law, any person who takes a native mammal or native bird or collects a native plant under a permit issued under these regulations may import it into the United States unless the Director finds that importation would not further the purpose for which it was taken or collected. If the importation is for a purpose other than that for which the native mammal or native bird was taken or the native plant collected, the Director may permit importation upon a finding that importation would be consistent with the purposes of the Act, these regulations, or the permit under which they were taken or collected.

§ 670.37 Specific issuance criteria for exports.

The Director may permit export from the United States of any native plant taken from a specially protected area or of any native mammal or native bird upon a finding that exportation would be consistent with the purposes of the Act, these regulations, or the permit under which they were taken or collected.

§ 670.38 Contents of permit applications.

In addition to the information required in Subpart C of this part, an applicant seeking a permit to import into or export from the United States a native plant taken from a specially protected area, a native mammal, or a native bird shall include the following in the application:

(a) Information demonstrating that the import or export would further the purposes for which the species was taken or collected; or

(b) Information demonstrating that the import or export is consistent with the purposes of the Act or these regulations; and

(c) A statement as to which U.S. port will be used for the import or export. The application shall also include information describing the intended ultimate disposition of the imported or exported item.

§ 670.39 Entry and exit ports.

Any native plant collected in a specially protected area and any native mammal or native bird imported into or exported from the United States must enter or leave the United States at ports designated by the Secretary of Interior in 50 CFR Part 14. The ports presently designated are:

(a) New York, New York
(b) Miami, Florida
(c) Chicago, Illinois
(d) San Francisco, California
(e) New Orleans, Louisiana
(f) Seattle, Washington
(g) Honolulu, Hawaii

Permits to import or export at nondesignated ports may be sought from the Secretary of Interior pursuant to Subpart C, 50 CFR Part 14.

§ 670.40 [Reserved]

Subpart J—Introduction of Non-Indigenous Plants and Animals

§ 670.41 Specific issuance criteria.

For purposes consistent with the Act, only the following plants and animals may be considered for a permit allowing their introduction into Antarctica:

(a) Sledge dogs;
(b) Domestic animals and plants; and
(c) Laboratory animals and plants including viruses, bacteria, yeasts, and fungi.

Living non-indigenous species of birds shall not be introduced into Antarctica.

§ 670.42 Content of permit applications.

Applications for the importation of plants and animals into Antarctica must describe (a) the need for the plants or animals, (b) how the applicant will ensure that the plants or animals will not harmfully interfere with the natural system, and (c) how the plants or animals will be removed from Antarctica or destroyed after they have served their purpose.

§ 670.43 Conditions of permits.

(a) *General.* All permits allowing the introduction of non-indigenous plants and animals will require that the animal or plant be kept under controlled conditions to prevent harmful interference with the natural system and that after serving its purpose the plant or animal shall be removed from Antarctica or destroyed in a manner that protects the natural system of Antarctica.

(b) *Dogs.*—In addition to the requirements of paragraph (a), all dogs imported into Antarctica shall be inoculated against the following diseases:

(i) Distemper;
(ii) Contagious canine hepatitis;
(iii) Rabies; and
(iv) Leptospirosis (L. canicola and L. icterohaemorragicae). Each dog shall be inoculated at least two months before importation, and a certificate of inoculation shall accompany each dog. No dog shall be allowed to run free in Antarctica.

§ 670.44 [Reserved]

Signed at Washington, D.C. on February 28, 1979.

RICHARD C. ATKINSON,
Director.

[FR Doc. 79-6744 Filed 3-5-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 94]

[Docket No. 20005; RM-1635; RM-1849; RM-2045; FCC 79-92]

PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

Development of Frequency Allocations and Regulations Applicable to the Use of Radio for the Remote Reading of Public Utility Meters

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The FCC terminates its Notice of Inquiry into the need to develop frequency allocations and regulations for remote reading of public utility meters. At the same time the Commission has expanded the scope of its consideration of automated systems to include distribution automation systems, which include the remote meter reading function, as well as load management and environmental monitoring. All information of record in Docket 20005, which is relevant, will be considered in SS Docket No. 79-18. The Notice of Proposed Rule Making regarding SS Docket No. 79-18 was released March 1, 1979, and is published elsewhere in this issue.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT:

Eugene Thomson, Safety and Special Radio Services Bureau, (202) 632-6497.

REPORT AND ORDER

Adopted: February 14, 1979.

Released: March 1, 1979.

By the Commission: Commissioner Quello absent.

1. On April 19, 1974, (39 FR 15162, May 1, 1974) the Commission adopted a Notice of Inquiry, in the above captioned matter. Comments were received from various parties, including the two companies which had petitioned the Commission for frequency allocations: Sangamo Electric Company (Sangamo, RM-1849) and Readex Electronics, Inc. (Readex, RM-1636, RM-2045). A complete list of parties filing comments is included in the Appendix.

2. The majority of those filing comments supported the concept of automatic meter reading (AMR). However, some expressed concern about radio AMR, citing possible interference problems and the economics of radio systems compared to non-radio systems. Some typical comments were:

American Gas Association, p. 2—"A.G.A. encourages the development of all new technology such as AMR systems that would facilitate and expedite the operation of A.G.A. member companies. A.G.A. believes that it is important that the Commission act with reasonable dispatch to implement the necessary rule making for specific provisions for allocation of frequencies for use in automatic meter reading and other distribution system operating functions."

Utilities Telecommunications Council, p. 11—"Based on its years of work in the AMR area, UTC is convinced that in order for a utility to be able to service all of its operating area and all of its meters and in order to provide the utility with the necessary flexibility and freedom of choice in communications systems needed to meet the utility's AMR and distribution system load management requirements, a combination of AMR communications systems may be required—telephone, cable TV, electric power line and radio."

Central Committee on Telecommunications of the American Petroleum Institute, p. 8—". . . reject all proposed rule amendments which look toward meeting any demonstrated RF spectrum needs for remote utility meter reading through the displacement of existing communication users or the shared use of presently assigned spectrum which would increase the interference potential to existing communication systems."

Associated Public Safety Communications Officers, Inc., pp. 4-5—"While APCO recognizes the long-term need of utility systems to develop automated meter reading techniques, it is unclear at present whether radio data transmission is necessary for this purpose. Until it is determined that radio telemetering of data offers important advantages over data collection via wire-lines, we believe it is premature to authorize radio-based utility meter reading systems on a regular basis."

Sangamo Electric Company, p. 17—"Most utility companies figure that the average cost of manually reading a meter is about $2.00 per meter per year. At the present time the automated approach has not been able to surpass that figure. However, as time goes on, particularly in the face of costs associated with wage increases, remote meter reading becomes more and more economically justified."

3. The weight of evidence gathered in this inquiry indicates that radio AMR systems, by themselves, would not be justified. However, a radio AMR system which could also perform load management and other related utility functions may be justifiable. In this regard, the U.S. Department of Energy (DOE) has estimated that "load management combined with rate structure reform has the potential for reducing oil consumption approximately 1.3 million barrels per day by 1985 and for saving utilities approximately $48 billion in capital for plant expansion capacity." [1]

4. More recently, the Utilities Telecommunications Council (UTC) has petitioned the Commission (RM-2824, filed January 17, 1977) to allocate frequencies in the 900 MHz range for what it calls "distribution automation" purposes. Distribution automation, according to the definition offered by UTC, includes automatic meter reading as well as load management, environmental monitoring, and other operation functions.

5. In response to the UTC petition, we are today instituting a new proceeding (SS Docket No. 79-18) to consider the broader question of radio distribution automation systems and have decided to address the issues associated with AMR within the context of that proceeding. Any information now on record in Docket No. 20005, which is relevant to the new proceeding, will be considered therein.

6. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 4(i), 303(c) and 303(r) of the Communications Act, as amended, that the proceedings in Docket No. 20005 are hereby TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

Comments were submitted by the following parties:

American Electric Power Service Corp.
American Gas Association.
American Petroleum Institute.
American Telephone & Telegraph Company.
Associated Public Safety Communication Office, Inc.
Association of Maximum Service Telecasters, Inc.
Atlanta Gas Light Company.
Brooklyn Union Gas Company.
Central Hudson Gas & Electric Corporation.
Central Illinois Light Company.
City of Rochester, N.Y.
City of Yonkers Department of Public Works.
Commonwealth Edison Company.
Consolidated Natural Gas Service Company.
Dallas Water Utilities.
Detroit Edison.
Elizabethtown Gas Company.
Erie County Water Authority.
GPU Service Corporation.
HF Systems.
Iowa Power & Light Company.
Gerald N. Johnson, Professional Engineer.
Kansas City Power & Light Company.
Mamoroneck, N.Y. Water Works.
Massachusetts Electric Company.
Monroe County Water Authority.
Northern Illinois Gas Company.
Public Service Company of Colorado.
Readex Electronics, Inc.
Reder, Inc.
Sangamo Electric Company.
Utilities Telecommunications Council.
Vincomen Company.
Westinghouse Electric Corporation.
Wisconsin Electric Power Company.
Wisconsin Gas Company.
Wisconsin Power & Light Company.

[FR Doc. 79-6623 Filed 3-5-79; 8:45 am]

[1] Federal Energy Adminstration (now part of DOE) Administrator Zarb's letter of November 6, 1975, to Federal Communications Commission former Chairman Richard E. Wiley.

[6712-01-M]

[47 CFR Part 94]

[SS Docket No. 79-18; RM-2824; RM-1635; RM-1849; RM-2045; FCC 79-93]

USE OF RADIO IN PUBLIC UTILITY DISTRIBUTION AUTOMATION SYSTEMS

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The FCC proposes amending its Private Operation Fixed Microwave Service rules (Part 94) and to include new regulations for the use of radio in connection with public utility distribution systems. This term includes an automatic meter reading function as well as load management and environmental monitoring. Comments are specifically invited as to the mode of channel splitting, the need for interference criteria, the allowable frequency tolerance, the licensing methodology, and the allowable power levels. Additionally, five specific questions relating to compatibility of systems, sharing of facilities, channel spacing, multiple address systems, and channel applications are posed for consideration and comment.

DATES: Comments must be received on or before April 30, 1979 and Reply Comments must be received on or before May 30, 1979.

ADDRESSES: Federal Communications Commission 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Eugene Thomson, Safety and Special Radio Services Bureau (202) 632-6497.

Adopted: February 14, 1979.

Released: March 1, 1979.

By the Commission: Commissioner Quello absent.

In the matter of Amendment of Part 94 of the rules to provide regulations for use of radio in Public Utility Distribution Automation Systems, SS Docket No. 79-18, RM-2824, RM-1635, RM-1849, RM-2045.

1. Notice of Proposed Rule Making is given in the above-captioned matter.

2. the Utilities Telecommunications Council (UTC) has petitioned the Commission for allocation of frequencies for use in distribution automation systems (RM-2824). More specifically, UTC has proposed the following:

- Reallocate the band 940.100 to 940.725 MHz from the Land Mobile Service and to the Operational Fixed Service.
- Pair the frequencies in the band 940.100 to 940.725 MHz with frequencies in the band 952.100 to 952.725 MHz.[1]
- Create 26 channel pairs in the bands 940.100 to 940.725 MHz and 952.100 to 952.725 MHz with a maximum assignable channel width of 25 kHz. (Upon a showing of need, assign two adjacent channels to form one 50 kHz channel).
- Protect existing users of re-allocated channels from interference for a 10 year period.
- Initially, set aside 12 channel pairs for licensees now eligible in the Power Radio Service. Make the remaining frequencies available to other users eligible to hold licenses under Part 94 of the Commission's Rules to meet similar fixed, multiple address communications requirements.
- Restrict the newly reallocated bands to multiple address, fixed operations.
- Adopt definitions and technical standards to govern the implementation and use of the reallocated frequency bands.

3. UTC defines distribution automation as a command and control system

[1] The band from 952.100 to 952.725 MHz is currently allocated to the Fixed service for International Control and Operational Fixed uses.

between the substation and the customer premises to provide for such operations as automatic meter reading,[2] time-of-day metering, load control and management, capacitor control and load monitoring. Communications between master stations at control centers and remote stations at customer locations, and other points in the distribution network, would be used to allow utilities to meet and to level peak demands for service. Telephone line and power line carrier systems are also under consideration for use along with radio. UTC feels, however, that for reliability and cost reasons, use of radio is essential to a distribution automation system.

4. Several state utility regulatory Commissions have advised the Commission of their interest in distribution automation systems as a means to help reduce energy consumption and new capital investments and are encouraging or requiring utilities to incorporate in their utility system distribution automation features. Demonstrations of time-of-day metering systems, for example, are now being conducted in a number of states.

5. The U.S. Department of Energy, many public utilities individually and in conjunction with the Electric Power Research Institute (EPRI), and a number of businesses have been actively promoting and conducting research and development of public utility distribution automation communications systems. Radio systems, power line carrier (PLC) systems, telephone based systems, subcarriers on existing radio systems, and combinations of all of these systems are being investigated.[3] Also, in Contract FCC-0244 to Systems Control, Inc., the Commission has contracted for a study of the costs of alternate communications systems for distribution automation. The preliminary report discusses various feasible communications systems for distribution automation, and contains information on the alternate systems. Its preliminary conclusion is that only radio and CATV systems can fulfill all the functions required of distribution automation. The report states that it may not be practical and cost effective to extend a CATV network into all residences, substations, and feeder devices solely for distribution automation and load management purposes. It appears, therefore, that radio would be at least one appropriate method for distribution automation and should be provided for.

6. We have considered the UTC petition in the light of the information contained in it, supplements to it, and the light of the background and information summarized above and we feel that sufficient justification exists for us to propose to accommodate the requirements outlined by UTC. However, we believe these requests can be met within the presently allocated fixed service band 952-960 MHz without requiring the reallocation of spectrum presently reserved for land mobile use or allocated for other services.[4]

7. The 952-960 MHz frequencies proposed are available under Part 94 of the Commission's rules for fixed, point-to-point omnidirectional operation. This is roughly the type of operation that UTC requests. UTC seeks 12 MHz (or greater) spacing between transmit and receive frequencies for distribution automation radio systems because, it argues, such spacing will facilitate equipment and system designs, would avoid *intra*-system interference problems, and will result in less expensive equipment. However, after reviewing the technologies with industries that probably would be used for building equipment in this band for distribution systems, the cost of radio equipment, even with the narrower spacing proposed here, is likely to be low. Also, equipment designed for the narrower separation proposed here can be expected to be less susceptible to inter-system interference. In our view, the other claimed advantages of the wider spacing have not been shown to be significant enough to require the use of spectrum outside of the 952-960 MHz fixed band.

8. The frequencies 952.1, 952.2, 952.3, 952.4, 952.5, 952.6, and 952.7 MHz and the frequency pairs 952.8/956.4, 952.9/956.5, 952.2/959.8, and 956.2/959.9 MHz have long been available for similar types of multiple address operations using 100 kHz bandwidth. Few assignments[5] have been made on these channels in the past. Splitting these channels to 25 kHz, the spacing requested by UTC, makes 64 frequencies available for use. There are several ways to pair these frequencies. The pairing scheme shown in proposed § 94.65(a)(4) provides 10 frequency pairs with 7.75 MHz spacing, 16 pairs with 3.9 MHz spacing and 12 unpaired frequencies. We think these spacings will provide the flexibility needed to accommodate various system designs, but we ask that this matter be addressed specifically in the comments. Eight of the 7.75 MHz spaced pairs and four of the 3.9 MHz spaced pairs have been earmarked for utility distribution automation systems and the remaining pairs as well as the single frequencies would be available to all entities under Part 94 of our rules, including power utilities. This would grant, in effect, UTC's request for the exclusive frequency allocation, although not the specific frequencies asked for, and would be in accord with the justification it submitted in its letter of February 24, 1978. The remaining shared frequencies would be sufficient to accommodate any additional automation distribution requirements as well as any requirements for other multiple address systems. However, we ask for additional comments, specifically on whether an exclusive allocation for automation distribution systems are necessary or appropriate.

9. Serious consideration has been given to channel bandwidths of less than 25 kHz, but we have tentatively decided to go along with UTC and propose 25 kHz channeling. Our principal reason is the possibility that 25 kHz channeling may facilitate the use of technology and equipment designs that have been developed and may be developed in the future for 900-MHz land mobile communication systems and thus obtain any resulting economies. However, we plan to consider this matter further before a final decision is made because it appears to us that narrower channels may be feasible, technically and economically under developing technology. Narrower bandwidth would, of course, yield many more communication channels and would result in the more efficient use of the spectrum. Therefore, we ask for comments on this issue and, specifically, whether channel-widths of 10, 12.5, 15 or 20 kHz may be appropriate. The comments should also discuss, the combination of channel bandwidth, emission type, techniques available for the tighter frequency tolerances that would be needed, and other related factors which need to be considered in order to develop spectrally efficient yet economically feasible automation distribution radio communication systems.

10. Other changes in Part 94 are required. First, we want to provide protection from intolerable levels of interference. UTC proposed interference criteria similar to the "short-haul" analog criteria currently prescribed in § 94.63 of the rules and, to achieve this protection, it suggested pre-established distance separations for both co-channel and adjacent channel sys-

[2] RM-1635, RM-1849, and RM-2045 asked for frequency allocations for automatic meter reading. Docket No. 20005 was instituted in response to these petitions. However, today we have closed that Docket and are incorporating relevant portions in this proceeding.

[3] The Commission has licensed a number of experimental stations, stations for developmental purposes in the Business Radio Service, and has issued a special temporary authorization to an FM Broadcast Station to help facilitate the development of radio based systems.

[4] *First Report and Order and Second Notice of Inquiry*, Docket 18262 35 FR 8644 (1970); *Land Mobile Service, Second Report and Order*, Docket 18262, 46 FCC 2nd 752 (1974).

[5] A total of 16 on the unpaired frequencies (952.1 through 952.7 MHz) and a total of 72 on the paired frequencies.

tems, rather than case-by-case analyses now required in Part 94. We recognize the practical difficulties of performing interference analyses for central station systems with poetentially hundreds or even thousands of remote stations. However, interference protection is as important here as it is for other stations in this band. Therefore, we will require applicants to certify that their proposals will not cause interference to any stations in an existing system in excess to that permitted unless, of course, the licensee of that system would accept lesser protection. Applicants would have the options of making the required certification either after coordination of their proposals with licensees of nearby systems or by an engineering analysis. Under the circumstances, establishing set geographic separation standards would not be appropriate. In any event, comments on this important subject and alternatives are specifically requested.

11. Another required change involves the frequency tolerance provisions of § 94.67. With the narrow channels proposed, the current value of ±0.0005% (±0.002% for central alarm systems) in the 952 to 960 MHz band is not tight enough. We are proposing that transmitters be maintained within ±0.0004% of the assigned frequency (approximately ±3.8 kHz) as suggested by UTC in their March 1, 1978, amendment to petition RM 2824.

12. The radio system contemplated would consist of one or more control or master stations and a large number of responding stations scattered over much of the licensees service area. Under the circumstances, licensing each of the stations involved separately would be very cumbersome. Accordingly, we propose to adopt a licensing procedure similar to the one we adopted for authorizing multiple-transmitter systems or splinter frequencies in Docket 20149. (See paragraph 24, *Second Report and Order,* Docket 20149, released August 4, 1977, 54 FCC 2d 618). Thus, we propose to allow applicants to file one application for each system.[6] This application would consist of a completed FCC Form 402 for each control or master station with an attachment outlining the area within which response or remote stations would be located. Additions and deletions of response stations would be allowed to be made by the licensee within the previously described service area without prior Commission authorization provided that the interference potential from the system is not increased. This matter of licensing these systems should be addressed in the comments and alternative suggestions are specifically requested.

[6]A system usually would consist of a number of transmitters communicating with one or more control or master stations.

13. UTC asks that the maximum power for remote stations using omnidirectional antennas be 5 watts output with an ERP of 47 dBm. We are proposing this limit, with other limits as currently provided in § 94.73 for remote stations with directional antennas and for master stations with omnidirectional antennas.

14. Other procedural rules needing change are listed in the Appendix.

15. Comments should be addressed to the specific proposals contained in the Appendix to this Notice. Comments should also be addressed to the following questions.

A. The form that distribution automation communications systems will take have not yet crystalized. A considerable investment is now being made by the utilities and the Government to create and evaluate many different kinds of communications systems. What standards are required to help insure compatibility between different systems which may operate in the same or in adjacent areas?

B. Can practical arrangements be made between utilities to share all or part of a common distribution automation communications system? If so, how; if not, why not?

C. UTC has suggested that multiple addressed systems other than utility distribution automation will use these frequencies. What other such uses might be made? Are the requirements of these uses similar enough to distribution automation so that the same rules apply to all?

D. UTC discussed the possibility of combining adjacent channels for single assignments when a need for additional bandwidth can be demonstrated. Flexibility to assign only the required bandwidth to an individual station might be made possible by assigning only the spectrum required for each particular application. Is this a practical method for assigning frequencies, especially for digital operations where the bandwidth is a function of the bit rate?

16. Notice is given for proposed rule making in this matter. Any interested person may participate in this proceeding by filing comments by April 30, 1979, and reply comments by May 30, 1979. Comments and reply comments may be addressed to the issues and proposals set forth in this Notice and to the issues as the participants believe are relevant and necessary to the resolution of these matters.

17. Authority for the proposed amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to § 1.415 of the Commission's rules, an original and five (5) copies of all comments, reply comments and other pleadings and submissions shall be furnished to the Commission. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

18. Accordingly, the above-captioned petitions, RM-1635, RM-1849, RM-2045 and RM-2824 are granted to the extent indicated in this Notice and are denied in all other respects.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

It is proposed to amend Part 94 of the Commission's Rules as follows:

1. In § 94.3, the following definition is added and appropriate alphabetical order:

§ 94.3 Definitions.

* * * * *

Master Station. A station, operating on frequencies in the 952-960 MHz band, which controls, interrogates or activates remote stations.

* * * * *

2. In § 94.15, paragraph (g) is amended and a new paragraph (i) is added as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(g) Except as provide in paragraphs (h) and (i) of this section, applicants requiring multiple transmit frequencies employed on separate paths from a single station location will not normally be authorized more than four of the paired transmit frequencies available in the band.

* * * * *

(i) Master and remote stations in the 952-960 MHz band will not normally be authorized more than two frequency pairs.

3. Section 94.25 is amended by adding a new paragraph (i) as follows:

§ 94.25 Filing of applications.

* * * * *

(i) For stations operating in the 952-960 MHz bands applications may include any number of remote stations in a single application, but must specify the geographic service area of the applicant in which these remote stations will be located. A separate application must be filed for each master station.

4. In § 94.27, paragraph (a) is amended by adding a new subparagraph (5).

§ 94.27 Application and standard forms.

(a) ***

(5) New station authorized or modification of license for each Master station and its associated remote stations.

* * * * *

5. In § 94.63, paragraph (b) is amended by adding a new subparagraph (5), and paragraph (d) is amended by a new subparagraph (4) as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

* * * * *

(b) ***

(5) *Master-Remote Systems.* The allowable interference level to both Master and Remote stations:

(i) Due to co-channel sideband-to-sideband interference shall not exceed 25pWp0 per exposure.

(ii) Due to co-channel carrier-beat interference shall not exceed 50pWp0.

* * * * *

(d) ***

(4) Applicants for Master-Remote Systems shall show that the protection criteria is met over the entire service area of existing systems, either after coordination with other licensees or by an engineering analysis.

* * * * *

6. In § 94.65, paragraph (a) is amended by deleting the list of unpaired frequencies, the paired frequencies 956.4/952.8 MHz, 956.5/952.9 MHz, 959.8/956.2 MHz, 959.9/956.3 MHz, and footnotes 1, 2, and 3 from the table in subparagraph (1). A new subparagraph (4) is added to paragraph (a) as follows:

§ 94.65 Frequencies.

(a) ***

(4) 25 kHz maximum bandwidth. Persons licensed on these frequencies as of November 1, 1978, may continue to operate as licensed until November 1, 1985.

7.75 MHz Spacing

Master	Remote
952.0125	[1]959.7625
952.0375	[1]959.7875
952.0625	[1]959.8125
952.0875	[1]959.8375
952.1125	[1]959.8625
952.1375	[1]959.8875
952.1625	[1]959.9125
952.1875	[1]959.9375
952.2125	[1]959.9625
952.2375	[1]959.9875

3.9 MHz Spacing

952.2625	[1]956.1625
952.2875	[1]956.1875
952.3125	[1]956.2125
952.3375	[2]956.2375
952.3625	[2]956.2625
952.3875	[2]956.2875
952.4125	[2]956.3175
952.4375	[2]956.3375
952.4625	[2]956.3625
952.4875	[2]956.3875
952.5125	[2]956.4125
952.5375	[2]956.4375
952.5625	[2]956.4625
952.5875	[2]956.4875
952.6125	[2]956.5125
952.6375	[2]956.5375

Unpaired Frequencies

[2, 3]952.6625	[2, 3]952.8125
[2, 3]952.6875	[2, 3]952.8375
[2, 3]952.7125	[2, 3]952.8625
[2, 3]952.7375	[2, 3]952.8875
[2, 3]952.7625	[2, 3]952.9125
[2, 3]952.7875	[2, 3]952.9375

* * * * *

[1]Available only to persons eligible under § 90.63 for licensing in the Power Radio Service (Part 90) for use in multiple address electric, gas, water, or steam utility distribution system automation operations.

[2]Available to all persons eligible under Part 94 for use in multiple address systems.

[3]Available for single frequency systems, with only multiple address operation authorized at one station and directional at all others.

7. In § 94.67, footnote 1 of the table in paragraph (a) is amended to read as follows:

§ 94.67 Frequency tolerance.

(a) * * *

[1]Transmitters operated at remote sites as part of a central protection alarm system authorized prior to are permitted a tolerance of 0.002%. Other remote and master stations shall operate with a frequency tolerance of 0.0004%.

* * * * *

8. In § 94.71, the entry for the 952-960 MHz band in paragraph (b) is amended, a new footnote 5 is added, and paragraph (c)(2) is amended by adding a new subparagraph (iv) to read as follows:

§ 94.71 Emission and bandwidth limitations.

(a) * * *

(b) The maximum bandwidth which will be authorized per frequency assigned, is as follows:

Frequency Band MHz	*Maximum Authorized Bandwidth*
952-960 MHz	25,50,100 or 100 kHz.[1 5]

* * * * *

[5]25 kHz bandwidth applies only to master and remote stations.

* * * * *

(c) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

* * * * *

(2) When using transmissions employing digital modulation techniques:

* * * * *

(iv) For remote and master stations in the 952-960 MHz band, pulse code modulation techniques will only be granted on a case-by-case basis upon an engineering evaluation of the impact on existing and future systems and needs.

* * * * *

9. In § 94.73, footnotes 1 and 3 in the tables in paragraph 1 and 2 are amended to read as follows:

§ 94.73 Power Limitations.

* * * * *

[1]For remote stations, the maximum transmitter output power shall be 5 Watts. For other stations, when an omnidirectional transmitting antenna is authorized, the maximum shall be 100 Watts.

* * * * *

[3]For remote stations, the maximum ERP shall be 47 dBm. For other stations, when an omnidirectional transmitting antenna is authorized in the bands 952-960 MHz and 2150-2160 MHz, the maximum shall be 60 dBm.

* * * * *

10. In § 94.75, footnote 1 in the table in paragraph (b) and the last sentence of paragraph (c) are amended to read as follows:

§ 94.75 Antenna limitations.

* * * * *

(b) * * *

[1]Except for frequencies 952.0125 MHz to 952.9375 MHz, 956.1625 MHz to 956.5375 MHz and 959.9875 MHz where omnidirectional antennas may be used.

* * * * *

(c) Applicants shall request, and authorization for stations in this service will specify, the polarization of each

transmitted signal. When periscope antenna systems or passive repeaters are employed, the applicant shall indicate the expected polarizaton of the reflected signal. The polarization should be expressed as either horizontal, vertical, or at an angle from vertical. Antenna polarizations of horizontal and vertical should be denoted by the abbreviations (H) and (V), respectively. For antennas using linear polarizations other than horizontal or vertical, the polorization should be stated in degrees measured from the vertical, with angles between 0° and +90° denoting the on-coming electric field vector displacement in a counterclockwise direction, and angles between 0° and −90° denoting the on-coming electric field vector displacement in a clockwise direction. In the event polarization diversity is authorized, the two polarizations must be separated by 90°. Antennas employing other than linearly polarized feed systems will not be authorized except as remote and master stations.

* * * * * *

11. In § 94.107, the headnote and text are amended to read as follows:

§ 94.107 Posting of station authorization.

(a) Except as provided in paragraph (c) of this section, the original of each transmitter authorization in this service shall be posted or immediately available at the address at which station records are maintained as named in the authorization.

(b) Except as provided in paragraph (c) of this section, a clear and legible copy of the current transmitter authorization shall be posted or be immediately available at the transmitter location.

(c) The requirements in paragraphs (a) and (b) of this section do not apply to remote stations authorized in the 952-960 MHz band.

[FR Doc. 79-6625 Filed 3-5-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Chapter 1]

DEVELOPMENT OF PROFIT POLICY FOR NEGOTIATED CONTRACTS

Availability and Request for Comment

AGENCY: Office of Federal Procurment Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on Potential Approach for Determining Profit Negotiation Objectives.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment an approach for determining profit objectives for negotiated contracts. The approach being considered resulted from a research project initiated by this office. The project was performed by the Logistics Management Institute (LMI). Our object is to derive a profit policy which is (i) conceptually sound, (ii) practicable to apply, (iii) equitable to both the government and its suppliers, and (iv) which introduces far more pressure for efficiency than the simple cost-based standard in general use today has heretofore generated. The policy, when established, will be incorporated in the Federal Acquisition Regulation (48 CFR) being developed by this Office.

DATE: Comments must be submitted by May 1, 1979.

ADDRESS: Obtain copies of the approach from and submit comments to LeRoy J. Haugh, Associate Administrator for Regulations and Procedures, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9013, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Conroy Johnson at (202) 395-6166.

SUPPLEMENTARY INFORMATION: The Commission on Government Procurement and others have recognized the need for a uniform Federal policy for determining equitable profit objectives under negotiated contracts. This void has caused profit levels for similar work to vary from agency to agency. Lacking specific policy guidance, the outcome of profit negotiations often rests with the relative strength of the negotiating parties which is a distinct disadvantage to the uninitiated small business enterprise. Some agencies have effectively precluded meaningful profit negotiations altogether by establishment of arbitrary profit ceilings which, after a while, are also inclined to become the floor.

Another problem concerns the common practice of calculating profits as a percentage of estimated costs. Because higher costs equate to higher profits, there is little if any incentive over the long term for contractors to reduce costs through economical performance or by plant modernization. Although this major fault of cost-based profit policies is widely recognized, agencies either have not adopted or have been timid in adopting other accepted standards for establishing equitable profits under negotiated contracts. The LMI report addresses these shortcomings.

The uniform profit policy suggested by LMI has two formulas: for contracts in the service sector of the economy, a profit formula based upon cost is applied; for contracts in the manufacturing and construction sectors, a profit formula based upon both cost and capital (referred to as a "hybrid") is to be applied.

The following principles are embodied in LMI's recommended policy:

The profit policy should support the primary government acquisition goal of least overall cost to the government;

For service contracts, the government does not materially benefit from increased use of facilities capital (plant and equipment); consequently, a formula in which profit is calculated as a percentage of the estimated cost of performance is recommended;

For manufacturing and construction contracts on which the increased use of facilities capital and the increased utilization of existing facilities can lower total acquisition costs to the government, a profit formula based upon estimated capital employed and estimated cost is recommended;

The target profit rates should be derived from commercial rates and updated annually to incorporate recent commercial experience.

The suggested cost based profit formula for service contracts reflects a commercial equivalent rate of earnings before interest and taxes of 7.2 percent return on cost. Adjustments are suggested for both the cost recoupment risk associated with different types of contracts and the entrepreneurial skill required for complex tasks. Including adjustments the target rate of return on costs varies from 5.7 percent to 9.7 percent.

The "hybrid" profit formula for manufacturing and construction contracts reflects a commercial equivalent rate of earnings before interest and taxes of 16.6 percent return on capital. Including the same adjustments as above, the target rate of return on capital varies from 14.1 percent to 20.7 percent or, expressed as a return on cost, from 8.5 percent to 12 5 percent for the firm with average characteristics. Service firms would have the option of having the "hybrid" policy applied to their contracts.

The table below summarizes the suggested approach. Views are solicited as to whether and how the approach might be modified for the purpose of motivating contractors to establish or maintain effective programs fostering national social and economic objectives.

[3110-01-C]

Profit Element \ Activity	GOCO Contract	Service Contract	Construction Contract	Manufacturing Contract
Return on Operating Capital			← 7.5% →	
Return on Facilities Capital			← 14.0% →	
Return on Cost	3%	7.2%	← 3.0% →	
Adjustment for Contract Type Risk	← ±1.5 on Cost →			
Adjustment for Task Complexity	← 0 to 1% on Cost →			
As % on Cost	1.5-5.5%	5.7-9.7%	5.0- 9.0%	8.5-12.5%
As % on Capital	N/A	N/A	14.1-25.3%	14.1-20.7%

[3110-01-M]

OFPP has *not* taken any position with respect to the LMI proposals. We will not do so until we have completely evaluated all views we receive thereon, including suggestions as to other alternatives and adjustments.

Dated: February 28, 1979.

LESTER A. FETTIG,
Administrator.

FR Doc. 79-6633 Filed 3-5-79; 8:45 pm]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 500, 501, 502, 503, and 505]

[Docket No. ERA-R-78-19]

PROPOSED RULES TO IMPLEMENT THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Request for Public Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Extension of Public Comment Period for New Facilities Rules.

SUMMARY: On November 9, 1978, the Economic Regulatory Administration (ERA) issued proposed rules for implementation of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) pertaining to new facilities (November 17, 1978, 43 FR 53974) and set a date of February 2, 1979, for submission of comments on the proposed rules. On January 12, 1979, ERA announced an extension of the public comment period with regard to the proposed rules concerning new facilities until March 2, 1979 (January 18, 1979, 44 FR 3721). In response to additional requests for further extension of the public comment period, the deadline date for submission of written comments on the proposed rules is hereby changed to March 12, 1979.

DATES: Comments now delivered not later than March 12, 1979, will be given full consideration.

ADDRESSES: Deliver all written comments to: Department of Energy Public Hearing Management, Room 2313, Economic Regulatory Administration, Docket No. ERA-R-78-19, 2000 M Street NW., Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

John L. Gurney (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-9766.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 7134, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8814.

Issued in Washington, D.C. March 1, 1979.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations & Emergency Planning Economic Regulatory Administration.

[FR Doc. 79-6903 Filed 3-5-79; 11:51 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

COMPETITIVE NATIONAL VISTA GRANTS

Final Notice

AGENCY: Action.

ACTION: Final notice of competitive national VISTA grants.

SUMMARY: The following final notice sets forth the competitive procedure under which applications for national VISTA grants will be accepted and reviewed. The notice describes the program purpose, applicant eligibility, grant scope, selection criteria, and application review process for national VISTA grants.

In accordance with ACTION's response to Executive Order 12044, "Improving Government Regulations," a working group met on August 25, 1978, and determined that a regulation was not necessary to accomplish the purposes of this notice, but that the alternative of guidelines was sufficient. In addition, because the group determined that the notice affects an important Agency program (VISTA) and imposed substantial compliance and reporting requirements, it was decided that the notice was significant and therefore, should be published in proposed form for a 60-day period during which written comments would be accepted and regional meetings held for public discussion.

No written or oral comments were received in response to the October 5, 1978 publication of the proposed interim guidelines. Therefore, the guidelines described below are the final notice of the national VISTA grant competitive procedure.

FOR FURTHER INFORMATION CONTACT:

Ms. Diana London, ACTION, VISTA, 806 Connecticut Avenue, NW., Washington, D.C. 20525; 202-254-5195.

SUPPLEMENTARY INFORMATION: Notice is given that pursuant to the authority contained in sections 103, 108, and 402(12) of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, title I, part A (42 U.S.C. 4953, 4958, 5042(12)), applications for grants to operate VISTA volunteer programs on a national or mutli-regional basis will herceforth be accepted and reviewed in accordance with the procedures set forth below.

Applications from current national VISTA grantees for second and third year continuation grants are not subject to these competitive procedures, but those applying for forth year continuations are subject to the procedures.

A. *Program purpose.* National VISTA grants are made for the purpose of providing full-time VISTA volunteers to sponsoring organizations which are working to alleviate poverty and poverty-related human, social and environmental problems on a multi-regional or national basis. VISTA Volunteers are assigned to local offices or project affiliates of the national grantee which are joined together by commonality of program purpose. VISTA will use national grants to impact on the basic human needs of the poor.

The national grantee is required to identify, and provide technical assistance to local groups which will serve as project sponsors of the volunteers. The grantee will also provide overall training, technical assistance and management support for the projects' operations.

B. *Eligibility.* Applicants for national VISTA grants must be public or private nonprofit incorporated organizations with ability to program full-time volunteers in antipoverty efforts. Applicants must have local officers or project affiliates in two or more of the ten Federal domestic regions. Both the applicant organization and its affiliates must have goals that are in accord with VISTA's legislative mission, which is: to strengthen and supplement efforts to eliminate poverty and poverty-related human, social and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. (Sec. 101, Pub. L. 93-113, 42 U.S.C. Sec. 4951.)

Applicants must be able to demonstrate sufficient administrative and fiscal expertise to manage a national grant as well as the capability of providing adequate training, technical assistance and supervision to the Volunteers and local project affiliates.

C. *General criteria for grant selection.* Grant applications will be reviewed and evaluated against the general criteria outlined below.

1. The proposed project(s) operating at the local level must:

(a) Contribute to the creation of more self-reliant communities by developing in and among the poor the capability for leadership, problem-solving and active participation in the decision-making processes which affect their lives;

(b) Have as a method of attacking poverty-related problems (1) the organization of low-income community residents to bring long-term benefits to the community through their own collective efforts or the establishment of an advocacy system controlled and operated by those to be served; or (2) the support of efforts of low-income citizen participation or grassroots advocacy organization(s);

(c) Demonstrate that the goals, objectives, and volunteer tasks are attainable within the timeframe during which the volunteers will be working on the project and will produce a measurable result(s);

2. The applicant organization must:

(a) Provide assignments for volunteers which are consistent with the requirements and restrictions for VISTA volunteer service contained in the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113) and applicable regulations and VISTA policies;

(b) To the maximum extent practicable, involve the low-income people to be served in the planning, development and implementation of the projects(s);

(c) Identify resources needed and make them available for volunteers to perform their tasks;

(d) Demonstrate sufficient administrative, supervisory and fiscal expertise to manage a multiple-unit, geographically-dispersed grant and multi-State volunteer payroll system;

(e) Demonstrate ability to recruit full-time volunteers into the project as appropriate;

(f) Demonstrate ability to provide pre- and in-service training and technical assistance appropriate to VISTA Volunteer assignments.

D. *Scope of grant.* Subject to the availability of funds, new national grants range in size from approximately $200,000 to $400,000. They are awarded for periods of up to fifteen (15) months to allow for preoperational planning and volunteer recruitment prior to the twelve (12) months of volunteer service.

A national VISTA grant covers only the direct costs of operating the project which are: volunteer recruitment, volunteer allowances and stipends, volunteer payroll administration, volunteer transportation, provision of training and technical assistance, project management and supervisory staff salaries, fringe benefits, staff travel, postage, telephone, and duplicating expenses. All other direct costs, as well as indirect costs, must be borne by the grantee. Grant applications must demonstrate ability of applicant organizations to provide these types of support.

Publication of this notice does not obligate ACTION to award any grants. Its purpose is to describe the procedures that will be used to review and award future national VISTA grants.

E. *Application review process.* When applications are solicited they will be reviewed and rated by an ACTION headquarters rating panel composed of a minimum of five (5) ACTION staff members having expertise in volunteer programs operating within low-income communities. No more than two members of the panel shall be staff of the VISTA program office appointed by the VISTA Director. The remaining panel members shall be appointed by the Associate Director for Domestic and Anti-Poverty Operations.

The panel shall establish a best qualified list which shall consist of the highest rated applicants in ranked order. The number of applicants on this list may be less than, but may not exceed, twice the number of grants anticipated. To determine that number, the panel will use $250,000 as the average grant size. The Director of VISTA shall select the grantees from the best qualified list.

Prior to making that final selection, the VISTA Director will transmit to the ten ACTION Regional Directors and appropriate State Directors copies of the best qualified list grant applications along with the evaluation criteria used by the panel. The ACTION Regional and State Directors (or their designees) will review and comment on the grant applications with State Directors assessing local project affiliates within their jurisdictions. Regional and State Directors will submit written recommendations to the director of VISTA. These recommendations will be considered by the Director of VISTA in making the final selection of grantees as well as in determining the size and actual composition of each national VISTA grant.

The final selection of National VISTA grantees will be made in accordance with the purposes of the Act, ACTION/VISTA policies and regulations, and within the limits of available funds.

The notice of grant award (NGA) will be made by the chief of the Grants Branch, Contracts and Grants Management, ACTION. The NGA sets forth in writing the amount of funds granted, the terms and conditions of the grant award, the effective date of the award, and the budget period for which support is given. It also incorporates the final project narrative submitted by the grantee and all subsequent project narratives and volunteer work plans related to local project sites as specified by the VISTA Grant Project Manager.

Effective Date: February 28, 1979.

SAM BROWN,
Director, ACTION.

[FR Doc. 79-6620 Filed 3-5-79; 8:45 am]

[4310-10-M]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with § 800.6(b)(3) of the Council's regulations "Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 22, 1979, at 7:30 p.m. a public information meeting will be held at Hanalei District Court, Hanalei, Kauai, Hawaii. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed improvements to Federal aid Primary Route 56, Kuhio Highway (Kauai Belt Road) from the vicinity of Kalihiwai Bridge to the terminus of the road near Haenea (Kee Beach), an undertaking of the Federal Highway Administration that will adversely affect Hanalei Bridge, the Waioli, and the Wapa Bridge, properties determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the regulations and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the properties by the Federal Highway Administration.

III. A statement by the Hawaii State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, (303) 234-4946.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 79-6583 Filed 3-5-79; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MEAT PRICING TASK FORCE

Establishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, the Secretary of Agriculture has determined that it is in the public interest to establish a Meat Pricing Task Force.

The purpose of this Task Force will be to provide advice and factual information to the Secretary of Agriculture as to constructive improvements in the meat marketing, meat pricing, and meat price reporting systems so that the Secretary may determine USDA response to anticipated legislation regarding the meat marketing system, as well as determine whether USDA should seek legislation in response to current methods of meat marketing. The Task Force will include representatives of all segments of the industry from producer to consumer.

Any comments on the establishment of this Task Force may be directed to Charles B. Jennings, Deputy Administrator, Packers and Stockyards, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, not later than March 21, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at the Office of the Deputy Administrator, Packers and Stockyards, AMS, during regular business hours.

Dated: March 1, 1979.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 79-6678 Filed 3-5-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP (1976), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on April 6, 1979, at 9:40 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: 1) Introductory remarks; 2) status of 1980 census planning; 3) 1980 census report showing detailed characteristics for States and metropolitan areas; 4) plans for disseminating products of the 1980 census and the Current Population Survey (CPS); 5) new industry and occupation classification; 6) November 1979 CPS ethnic supplement and related experimentation; 7) progress report on samples from the 1940 and 1950 censuses for public use; 8) National Academy of Sciences' Decennial Census Review Panel report; and 9) Committee recommendations, and agenda for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comments and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-7030.

Dated: March 1, 1979.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 79-6702 Filed 3-5-79; 8:45 am]

[3510-08-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Department Organization No. 25-5A; Amendment 6; Transmittal 441]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Department Organization

This order effective February 13, 1979 further amends the material appearing at 42 FR 35672 of July 11, 1977, 43 FR 6127 of February 13, 1978, 43 FR 6128 of February 13, 1978, 43 FR 21497 of May 18, 1978, 43 FR 27224 of June 23, 1978 and 43 FR 57939 of December 11, 1978.

Department Organization Order 25-5A of June 3, 1977, is hereby further amended as shown below. The purpose of this amendment is to delegate to the Administrator of NOAA certain of the Secretary's authorities to act under Public Law 95-372, the Outer Continental Shelf Lands Act Amendments of 1978.

SECTION 3. DELEGATION OF AUTHORITY. A new subparagraph 3.01jj. is added to read as follows:

"jj. The following functions prescribed by the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372, September 18, 1978):

"1. The conduct of environmental studies and monitoring of the Outer Continental Shelf for the Secretary of the Interior as authorized by Section 20 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1346).

"2. The conduct of studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance as authorized by Section 21(e) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1347(e)).

"3. Title IV of P.L. 95-372, pertaining to the Fishermen's Contingency Fund, except that the Secretary reserves the authority to submit the annual report to Congress required by section 406 (43 U.S.C. 1846)."

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary
for Administration.

[FR Doc. 79-6688 Filed 3-5-79; 8:45 am]

[3510-49-M]

[Department Organization No. 25-6A; Amendment 1; Transmittal 440]

UNITED STATES FIRE ADMINISTRATION

Department Organization

This order effective February 8, 1979 amends the material appearing at 40 FR 25702 of June 18, 1975.

Department Organization Order 25-6A, dated April 28, 1975, is hereby amended as shown below. The purpose of this amendment is to reflect the change in the name of the National Fire Prevention and Control Administration to the United States Fire Administration (P.L. 95-422 of October 14, 1978).

1. All references to the organizational title "National Fire Prevention and Control Administration" (or "NFPCA") appearing in this Order are hereby changed to the "United States Fire Administration" (or "USFA"), as appropriate.

2. *SECTION 4. FUNCTIONS.* Section 4 is revised to read as follows:

"SECTION 4. FUNCTIONS.

"The USFA shall perform the functions set forth in the Act, as amended (copy appended hereto), as provided in this Order, and such other functions as may be prescribed by the Secretary."

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary
for Administration.

[FR Doc. 79-6689 Filed 3-5-79; 8:45 am]

[3710-GF-M]

DEPARTMENT OF DEFENSE

Department of the Army

LOUISVILLE-JEFFERSON COUNTY RIVERPORT AUTHORITY

Notice of Intent to Prepare a Draft Environmental Impact Statement

To prepare a Draft Environmental Impact Statement (DEIS) for a proposed port and industrial park along the Ohio River near Louisville, Kentucky.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The Louisville-Jefferson County Riverport Authority proposes to construct an industrial park and riverport along the Ohio River in Jefferson County, Kentucky. The proposed site is located along the left bank, river mile 618 to 619. The Riverport Authority has applied for a Department of the Army Permit under section 10 of the Rivers and Harbors

Act of 1899 and Section 404 of Pub. L. 92-500, the 1972 Amendments of the Federal Water Pollution Control Act.

Notice is hereby given of the assumption of "lead agency" responsibility for Federal action for the proposed facility by the Louisville District, Corps of Engineers. The DEIS will cover a variety of issues including air quality, economics, land use and transportation, in addition to the actual construction and operation of the facility.

A scoping meeting for the DEIS will be held on Tuesday, 17 April 1979, at 7:30 p.m. (E.S.T.) in the cafeteria of the Conway Middle School, 6300 Terry Road, Louisville, Kentucky. The purpose of the meeting is to identify the significant issues to be analyzed in depth in the DEIS. The participation of the public and all interested Government agencies are invited.

DATE: The Louisville District estimates that the DEIS will be released for public review on or before 1 July 1980.

ADDRESS: Questions regarding the proposed action, the Environmental Impact Statement or the scoping meeting should be directed to Thomas P. Nack, Colonel, Corps of Engineers, 600 Federal Place, P.O. Box 59, Louisville, Kentucky 40201. Phone: (502) 582-5601.

By Authority of the Secretary of the Army.

Dated: February 26, 1979.

THOMAS P. NACK,
Colonel, CE, District Engineer.

[FR Doc. 79-6687 Filed 3-5-79; 8:45 am]

[3710-08-M]

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army, DOD.

ACION: Notice of a new system of records.

SUMMARY: The Department of the Army proposes to add a new system of records to its inventory subject to the Privacy Act of 1974.

DATES: This system shall be effective as proposed on April 5, 1979, unless comments are received on or before April 5, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning this system should be addressed to the System Manager identified in the system of records.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, The Adjutant General Center, Department of the Army, Forrestal Building, 1000 Independence Avenue SW, Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a, Pub. L. 93-597, have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977
FR Doc. 78-23953 (43 FR 38070) August 25, 1978
FR Doc. 78-22562 (43 FR 40272) September 11, 1978
FR Doc. 78-26732 (43 FR 42026) September 19, 1978
FR Doc. 78-25819 (43 FR 42374) September 20, 1978
FR Doc. 78-26699 (43 FR 43059) September 22, 1978
FR Doc. 78-26996 (43 FR 43539) September 26, 1978
FR Doc. 78-29130 (43 FR 47604) October 16, 1978
FR Doc. 78-29211 (43 FR 48894) October 19, 1978
FR Doc. 78-29982 (43 FR 49557) October 24, 1978
FR Doc. 78-31795 (43 FR 52512) November 13, 1978
FR Doc. 78-34539 (43 FR 58111) December 12, 1978
FR Doc. 78-35523 (43 FR 59869) December 22, 1978

The Department of the Army submitted a new system report for this system on January 29, 1979 under the provisions of 5 U.S.C. 552a(o).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

FEBRUARY 28, 1979.

A1019.03FORSCOM

System name:

US Army Marksmanship Unit Data System (AMUDS)

System location:

Primary System: Office Deputy Chief of Staff for Operations (ODCSOPS-TAT), Headquarters, United States Army Forces Command (FORSCOM), Ft McPherson, GA 30330.

Decentralized Segments: Headquarters, United States (US) Army Marksmanship Unit, Ft Benning, GA 31905 and US Army Marksmanship Training Units at the following locations: Ft Meade, MD 20755; Ft Riley, KS 66442; and Ft Ord, CA 93941.

Categories of individuals covered by the system:

All US Army active duty personnel who compete in FORSCOM regional or US Army Shooting Championships, Interservice Shooting Championships or National Rifle Association (NRA) National Shooting Championships.

Categories of records in the system:

File contains name, social security number (SSN), information concerning shooting classifications, levels of participation in competition, scores fired in such competitions, primary military occupational specialty (PMOS), estimated termination of service (ETS), date of estimated return from overseas (DEROS) or date of return from overseas (DROS), last unit address, phone numbers, and assignment preferences.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012; US Army Forces Command (FORSCOM)/ US Army Training and Doctrine Command (TRADOC) Supplement 1 to Army Regulation (AR) 350-6, "Army-wide Small Arms Competitive Marksmanship."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To monitor the competition status of marksmanship qualified personnel throughout the Army and coordinate the assignment of qualified officers and noncommissioned officers to FORSCOM Marksmanship Units.

To facilitate rankings by demonstrated competitive shooting ability, locating (if not competing in all Army Championships), and attachment, if appropriate, to the US Army Marksmanship Unit for support of the National Trophy Group in the National Matches or for support in the US Army efforts to place individuals on US International Teams.

To assist installation commanders in identifying qualified personnel within their commands to conduct marksmanship programs.

To verify competitive marksmanship qualifications of any individual for Army Marksmanship Unit managers on whose area of responsibility that individual's qualification would have an impact.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and disks at ODCSOPS-TAT.

Paper records in file folders may be filed at any of the locations participating in the system.

Retrievability:

Alphabetically by last name of individual and by SSN.

Safeguards:

At ODCSOPS-TAT, Headquarters, FORSCOM, the computer software is secured in a combination locked area restricted to authorized personnel. Access is limited to personnel actually involved in daily computer operations. Visitors are registered and escorted while in the area. Paper records maintained elsewhere are maintained in locked file cabinets accessible only to US Army Marksmanship Unit coaches and managers of FORSCOM Marksmanship Unit teams. Buildings are locked during non-duty hours with a charge of quarters in attendance.

Retention and disposal:

ODCSOPS-TAT, Headquarters, FORSCOM: Paper records containing the individual data and competitive marksmanship results are destroyed upon transposition of information to computer tapes and disks. Information pertaining to an individual is automatically purged from the computer file 4 years after the last competition entry. Identifying and locating information is updated annually.

US Army Marksmanship Units: Computer printouts are destroyed upon receipt or updated ones. (This retention period is subject to approval by the National Archives and Records Service.)

System manager(s) and address:

Deputy Chief of Staff for Operations (ODCSOPS-TAT), Headquarters, US Army Forces Command, Ft McPherson, GA 30330; Commander, US Army Marksmanship Unit, Ft Benning, GA 31905.

Notification procedure:

Information may be obtained from: Commander, US Army Forces Command, ATTN: AFOP-TAT, Ft McPherson, GA 30330, telephone: Area code 404-752-3908, or Commander, US Army Marksmanship Unit, Attn: S-3, Ft Benning, GA 31905, telephone: Area code 404-545-7174.

Record access procedures:

Requests from individuals should be addressed to: Commander, FORSCOM Attn: AFOP-TAT, Ft McPherson, GA 30330 or to: Commander, US Army Marksmanship Unit, Attn: S-3, Ft Benning, GA 31905.

Written requests for information should contain the full name and SSN of the individual, current address, and telephone number.

For personal visits, the individual should be able to provide some acceptable identification; e.g., Armed Forces Identification Card, driver's license, etc.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 505 and AR 340-21.

Record source categories:

Locally designed forms completed by individuals on whom data is recorded and official match bulletins.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 79-6621 Filed 3-5-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Energy Information Administration

FOREIGN OIL SUPPLY AGREEMENT REPORT

Reporting Requirement

AGENCY: Department of Energy, Energy Information Administration.

ACTION: Notice of request for publication and submission by interested parties of Form EIA-27, Foreign Oil Supply Agreement Report.

SUMMARY: To implement the foreign oil supply agreement reporting system promulgated by FEDERAL REGISTER notice on September 23, 1977, 42 FR 48328 (Part 215 of Title 10 of the Code of Federal Regulations) the Energy Information Administration has developed Form EIA-27, Foreign Oil Supply Agreement Report. Responses to the form will be used to improve the ability of the Department of Energy (DOE) to assess the state and direction of the International oil market and assure that DOE evaluations and decisions with respect to that market are based on full and complete information. Submission of Form EIA-27 is mandatory for any person having the right to lift for export by virtue of an equity interest, reimbursement for services, exchange or purchase, from any country, from fields actually in production, (1) an average of 150,000 barrels per day or more of crude oil for a period of at least one year, or (2) a total of 55,000,000 barrels of crude oil for a period of less than one year, or (3) a total of 150,000,000 barrels of crude oil for the period specified in the agreement, pursuant to supply arrangements with the host government.

EFFECTIVE DATE: The form EIA-27 must be completed and returned not later than 60 days after the date of this notice. Submissions should be delivered by courier or registered mail to the following address:

Ms. Bernadette Michalski, U.S. Department of Energy, Energy Information Administration, Room 4440, 12th & Pennsylvania Ave. NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Michalski, (202) 633-9364.

SUPPLEMENTARY INFORMATION:

I. *Availability of Form.* A copy of Form EIA-27 is appended to this notice. You may submit based on the copy provided or you may request a copy of the form from Ms. Bernadette Michalski by calling (202) 633-9364.

II. *Background.* The U.S. Department of Energy is authorized to collect information on foreign oil supply agreements under the Federal Energy Administration Act (Pub. L. 93-275) Section 13(b). The FOSA Report will be utilized by the DOE Office of Internationl Affairs a a basis for informed policy decisions in areas affecting the energy supply interests of the United States.

The FOSA Report will be the first step in reporting of supply agreements between respondents and foreign oil producers. After receipt of the FOSA Report, the DOE may meet mith company representatives to discuss the information contained in the FOSA Report and other aspects of the supply agreement. If the DOE deems it necessary, it may request respondent companies to produce documentation concerning the supply agreement.

In addition, the Foreign Oil Supply Agreement Report may be utilized in conjunction with the EIA-67 "Foreign Crude Oil Cost Report" and ERA-51 "Transfer Pricing Report" (upon OMB clearance). The latter two reports will provide the volumes, prices, and costs of crude oil acquired under certain FOSA contracts.

Issued at Washington, D.C., February 27, 1979.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

[6450-01-C]

EIA 27

U.S. DEPARTMENT OF ENERGY
Washington, D.c. 20461

Form Approved
O.M.B. No. 38-R0375

FOREIGN OIL SUPPLY AGREEMENT

This report is mandatory under Public Laws 93-159, 93-275, and 94-163. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law.

Schedule 1 - Summary Identification Data

1.0 IDENTIFICATION DATA

1.1 Date Report Prepared: MO. DA. YR.

1.2 This Report Applies to:
(a) ☐ Parent or Parent and Consolidated Entities
(b) ☐ Unconsolidated Entity

1.3 Name and EIN or Parent if Item 1.2b is checked:
Name
EIN

1.4 EIN.

1.5 Revised Report Indicator:
(a) ☐ Check here if this is a revised report
(b) Enter date revised report submitted - MO. DA. YR.

1.6 Firm Name:

1.7 ☐ *CHECK* here if name and address of firm changed since last report.

1.8 (a) Street/Box/RFD:

1.8 (b) City:

1.8 (c) State:

1.8 (d) ZIP Code -

1.9 (a) Contact Person:

1.9 (b) Title:

1.9 (c) Telephone:

2.0 AGREEMENT IDENTIFICATION DATA

2.1 Agreement Serial Number:

2.2 Modification Number:

2.3 Type of Report:
(a) ☐ New Agreement
(b) ☐ Termination
(c) ☐ Modification

2.4 Purchaser/Acquirer Name:

2.5 Supplier *(Host Government/State Oil Company)*:

2.6 Country:

3.0 CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name:

Title:

Signature:

Date:

Title 18 USC 1001. Makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

[6450-01-M]

FOREIGN OIL SUPPLY AGREEMENT REPORT

GENERAL INSTRUCTIONS—PART A

I. *Purpose.* The purpose of the Foreign Oil Supply Agreement (FOSA) Report is to improve the ability of the Department of Energy (DOE) to assess the state and direction of the international oil market and assure that DOE evaluations and decisions with respect to that market are based on full and complete information.

The FOSA Report is the first step in the reporting of supply agreements between respondents and foreign oil producers. After receipt of the FOSA Report, the DOE may meet with company representatives to discuss the information contained in the FOSA Report and other aspects of the supply agreement. If the DOE deems it necessary, it may request respondent companies to produce documentation concerning the supply agreement. This last action will generally occur when DOE believes that the information does not adequately describe all of the terms of the supply agreement. Therefore, it will be to the mutual benefit of both the respondent and the DOE for the respondent to provide a detailed description of the supply agreement in the FOSA Report.

The FOSA Report has been designed to allow a respondent flexibility in reporting the terms and conditions under which it acquires crude oil from foreign entities. This design has been used in recognition of the variety of terms of access, including concessionary agreements, participation contracts and purchases. This Report should convey to the DOE what the supply relationships are between the respondent and the contracting entity for the producer, whatever form those relationships may take.

The Department of Energy has specified the order in which contract terms should be itemized in the Report in order to provide some consistency in reporting form and facilitate analysis of returns. Respondents must provide requested information on terms and conditions wherever relevant. They must also provide any other information needed to describe fully the relationships between the acquirer company and the national entity supplying the company with crude oil.

The DOE encourages respondents to identify those agreements or portions thereof which should be considered for national security classification.

There are three parts to the Report. The first part involves identification of the company reporting. The second part requires information about the details of the agreement. The third part involves information certification. If the instructions for answering do not apply to the agreement or constrain the answer to the questions, explain why the instructions restrict your ability to fully answer, then give as full an answer as possible. The Report solicits the broadest and most complete answers that can be given.

II. *Who Must Submit.* Any person having the right to lift for export by virtue of equity interest, reimbursement for services, exchange of purchase from any country from fields actually in production; (1) an average of 150,000 barrels per day or more of crude for a period of at least 1 year; or (2) a total of 55,000,000 barrels of crude oil for a period less than 1 year; or (3) 150,000,000 barrels of crude oil for the period specified in the agreement, pursuant to arrangements with the host government, must file a Foreign Oil Supply Agreement Report on each such agreement. You must file one identification page for each agreement you report.

III. *Where to Submit.* The Foreign Oil Supply Agreement Report should be delivered by courier or registered mail to the following address:

> Department of Energy, Energy Information Administration, Office of Energy Data and Interpretation, Division of Interfuels, Nuclear and Other Energy Sources, Washington, D.C. 20461.

Requests for additional copies of the form, as well as questions relating to the form, may be directed to DOE at the above address or you may telephone 202-633-9364. Additional copies may also be obtained by preparing reproduction copies of the form.

IV. *When to Submit.* A. Reports must be filed no later than sixty (60) days after final issuance of the reporting forms. Notice of this issuance will be published in the FEDERAL REGISTER.

Subsequent reports should be made no later than:

1. Thirty (30) days after the date when supply arrangements are entered into; or
2. Thirty (30) days after the initial lifting under an agreement in which the parties have tentatively concurred but not signed, whichever comes first.

B. Any person required to report the terms of access to crude oil must also report to DOE within thirty (30) days of notification by the host country; (a) any change by the host government in official selling prices, royalties, host government taxes, service fees, quality or port differentials or any other payments made directly or indirectly for crude oil; changes in participation ratios; other changes in concessionary arranges; (b) changes in the timing of collection of payments due by the buyer to the seller; and (c) any changes in restrictions on lifting or disposition.

Reports on changes or modifications of price terms, rebates, discounts or credit terms should be filed only if the method for determining these conditions has been changed. Reports need not be filed for changes in the dollar value of these items, unless the changes are the result of a revision to the method for determining them.

V.

A. If the parent company or one of its entities, whether consolidated or unconsolidated for financial accounting purposes, is a party to a crude oil supply agreement of sufficient size to qualify for reporting under EIA-27, the parent company shall be responsible for the reporting of such agreements. Note, however, § 215.3 (c) Title 10, Chapter II of the Code of the Federal Register which provides in the case of joint operations that participants acting together may designate a single participant to report on any of the rights, obligations, or limitations affecting the operation as a whole. If a single participant is designated to report for a joint venture, each participant in the venture must notify DOE that a single participant will report for the venture as a whole.

B. The firm will report prices and costs in the U.S. dollars per barrel to the nearest cent.

VI. *Definitions.* A. "Supply agreement" is any contract, verbal agreement, written communication, letter or other written or unwritten agreement between two parties in which one party acquires a product or products from the second party for a price. The price may be agreed upon in the contract, determined by a formula, negotiated periodically, or otherwise determined. The price may involve exchange of cash, services, or other products. These components of the price may be described in the contract, written correspondence, informal discussions and other communications between the parties. The agreement may also place non-price requirements on the acquirer, e.g., minimum liftings, restrictions on oil movement and disposition.

B. "Contract" is any written document signed by two or more parties which requires or entitles one party to purchase or to offer for sale a product or products from a second party for a price. The price may involve exchange of cash, services or other products. The contract may also place non-price requirements on the purchaser.

C. "Party" for the purpose of this form is any person (as defined below), state-owned oil company, or agency of a host government which is empowered to enter into a supply agreement.

D. "Host governments" means the government of the country in which

crude oil is produced and includes any entity which it controls, directly or indirectly.

E. "Person" means any natural person, corporation, partnership, association, consortium or any other entity doing business or domiciled in the United States and includes: (a) any entity controlled directly or indirectly by such a firm; and (b) the interest of such a firm in any joint venture, consortium or other entity to the extent of entitlement to crude oil by reason of such interest.

F. "Parent and consolidated entities" means a parent and those firms, if any, directly or indirectly controlled by the parent which are consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren.

G. "Unconsolidated entity" is any entity directly or indirectly controlled by a parent but not consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An "unconsolidated entity" includes any entity consolidated with that unconsolidated entity for purposes of financial statements prepared in accordance with generally accepted accounting principles.

Specific Instructions/Identification Data—Part B. This part must be completed for each agreement reported.

Item 1.1: Date Report prepared.

Item 1.2: This report applies to:

Place a check mark in the box that best describes the person submitting this report. Refer to the "Definitions" section to ascertain the type of person.

Item 1.3: If Item 1.2 (b) is checked:

Enter the name of the parent firm and the Employers Identification Number (EIN)

Item 1.4: EIN

Enter the reporting firm's Internal Revenue Service (IRS) Employer Identification Number (EIN). If the EIN is not known, the reporting firm may contact its nearest IRS office for its EIN number.

Item 1.5: Revised Report

Check this box if this is a revised report. Leave blank if this is an original submission.

Enter the date on which revised report is submitted.

Item 1.6: Firm Name

Enter the legal name of the reporting firm.

Item 1.7: Change of address

Check this box if the name or address of the reporting firm has changed since the last submission.

Item 1.8: Address

Enter the complete address of the reporting firm, including ZIP code. Enter the state abbreviation and ZIP code in the appropriate boxes, entering one digit or letter per box. Use the official United States Postal Service abbreviations.

Item 1.9: Contact Person

Enter the name, title, and telephone number, including area code, of an individual within the reporting firm who may be consulted for additional information regarding this submission.

Item 2.1: Agreement Serial Number

Each supply agreement negotiated with a host government is to be assigned a unique three-digit serial number by the Reporting Company. Thereafter, this serial number will appear in the serial number field of all reports which describe signed modifications, and the termination of this agreement.

Item 2.2: Modification Number

Once a report of an agreement has been filed and an agreement serial number has been assigned, each subsequent modification is to be assigned a modification number of the following form:

P002

Where "P" indicates a modification of an agreement. The three-digit number is the sequential serial number of the modification.

Item 2.3: Type of Report:

Enter the type of report:

(a) New Agreement

(b) Termination of previously reported agreement

(c) Modification of any existing agreement previously reported.

Item 2.4: Enter the name of the company purchasing or acquiring the crude oil as identified in the supply agreement.

Item 2.5: Supplier (Host Government/State Oil Company)

Enter the name of the host government or state oil company identified as the supplier in the agreement.

Item 2.6: Country

Enter the name of the country from which crude oil will be lifted.

Specific Instructions/Agreement Information—Part C

In order to properly and fully address the following items of information, you are required to submit these details in a narrative format.

1. Type of Agreement

Describe the type of agreement that your firm has entered with the supplier, e.g., concession, participation contract, service contract or purchase agreement.

2. Parties to the Agreement other than those indicated in Sections 2.4 and 2.5.

If the agreement is a partnership or joint venture (including a joint venture with the host government), or other wise involves parties other than the respondent and its supplier, identify the nature of other parties participation and their proportionate interests.

3. Type of Crude Oil

Make as complete and identification as possible of the type or types of crude oil covered by the agreement; the description should cover fields or areas where produced, API gravity, sulfur content.

4. Point of Possession

Specify the geographic location, or locations, at which the title to crude oil is obtained. Specify if different from the basing point for the price paid under the agreement and explain if any difference is noted.

5. Dates

Indicate effective date of the agreement; if crude oil is lifted prior to the effective date, give the date of initial lifting; describe dates and conditions under which the agreement can be cancelled, continued, or renegotiated in whole or in part and the date or conditions under which the agreement will cease to be effective.

6. Lifting Provisions

a. For each time period specified by the supply agreement, enter the minimum lifting obligation and the maximum lifting right for each type of crude expressed in barrels per day.

b. If there are any special lifting options, penalties or incentives, in the supply agreement, describe them and the conditions that will invoke them.

c. If there are any drilling or producing obligations, describe how they are determined.

7. Price Terms

a. Explain in detail the method by which the price of crude oil is determined. Indicate any costs incurred by the acquirer up to the point at which prices are determined. If a formula is used, show the formula and explain how it is applied. Identify all components of the price; if the oil is sold CIF, so indicate and specify the destination. If there are other conditions included in the price terms, such as the terminal to be used, include these in the description of the price terms.

b. Describe details of the credit provisions. Indicate the payment period. If there are optional terms, so identify the options and conditions that will cause them to become effective.

c. Describe the terms of rebates and discounts.

8. Escalation clauses

a. Describe any escalation clauses that are included in the supply agreement and the conditions under which each of them may be invoked. These clauses may include changes resulting from devaluation, revised government payments, price indices, export taxes, etc. Indicate the period of retroactivity.

9. Performance Obligations

Where the acquisition of crude oil under the agreement is in any way associated with the acquirers performance as an explorer, developer, producer or provider of services related to the production of that oil, describe the nature and terms of that relationship, including as applicable, minimum/maximum allowable producing rates, the

current average rate of production expressed in barrels per day.

10. Payments to Host Government

Describe all payments made to the host government under the terms of the supply agreement. Payments may include such items as royalties, taxes, fees, and rentals. For each type of payment, describe the applicable formula, rates, terms and how they are applied.

11. Remunerations to the acquirer by the supplier

This question refers to service fees, reimbursements of expenses or any other reverse flows of funds, investments, or other benefits. Describe each in detail, explaining why such payments are being made and the nature of, and if possible the value of, associated costs.

12. Restrictions on the shipping or disposition of crude oil

Describe any restrictions placed on the reporting company by the host government or state oil company concerning the ultimate designation, dispositon or resale of crude oil acquired under the agreement. Provide details on all obligations to use foreign-owned shipping or refinery facilities or to provide goods, services, or technology in return for access rights to the crude. Indicate the conditions under which the restrictions may be invoked.

13. Other material terms

Provide a detailed description of all other material terms. Include all other obligations and restrictions, indicating the conditions under which these terms take effect. Include in this section any requirements for the transfer of technology, participation in development or other non-oil ventures or other conditions which cannot be assigned a price.

14. While DOE will make all decisions as to what national security classification, if any, will be accorded to specific items of EIA-27 information, it encourages respondents to identify which items of information they believe should be accorded national security or proprietary protection and for what period and to give specific reasons for their beliefs in this regard.

[FR Doc. 79-6464 Filed 3-5-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

PROPOSED FORMS FOR THE PETITIONING FOR EXEMPTIONS FROM THE PROHIBITIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Request for Public Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Extension of Public Comment Period.

SUMMARY: In FEDERAL REGISTER Notice FR Doc. 79-4300, 44 FR 9053, published February 12, 1979, the Economic Regulatory Administration (ERA) promulgated proposed forms for use in petitioning for exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) and set a date of March 2, 1979, for submission of comments on the proposed forms. In response to requests for extension of the public comment period, the deadline date for submission of written comments on the proposed ERA forms is hereby changed to March 26, 1979.

DATES: Comments now received not later than March 26, 1979, will be given full consideration.

ADDRESSES: Address all comments to: Robert C. Gillette, Department of Energy, Economic Regulatory Administration, Docket No. ERA-R-79-4, 2000 M Street, NW, Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Alfred C. Metz, Department of Energy, Economic Regulatory Administration, ERA Docket ERA-R-79-4, 2000 M Street NW, Room 2313, Washington, D.C. 20461.

Issued at Washington, D.C., on February 28, 1979.

ROBERT L. DAVIES,
Deputy Assistant Administrator for Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-6637 Filed 3-1-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. RM78-12]

ALASKA NATURAL GAS TRANSPORTATION SYSTEM INCENTIVE RATE OF RETURN

Delegate Report and Order Directing Tariff Filing

Issued February 22, 1979.

Pursuant to the Commission's directive in Order Nos. 17 and 17-A,[1] the Alaskan Delegate has filed a report on the status of the tariff issues for the Alaska Natural Gas Transportation System (ANGTS). The report itemizes and discusses unresolved tariff issues in the context of the risk allocation framework during the operation phase of the Northern Border and Alaskan segments of the project, and addresses the issue of the Operation Phase Rate of Return.

The Delegate's covering memorandum to the Commission makes a procedural recommendation that differs from the procedures contemplated in the earlier orders. It is that all remaining issues associated with the Commission's review and adoption of the project company tariffs and the incentive rate of return (IROR) mechanism, including expected schedules of rates for the Northern Border and Alaska segments, be consolidated and resolved as completely as possible through a single rulemaking proceeding. The Commission agrees and will require the filing by March 12, 1979, of the project company tariffs for the Northern Border and Alaska segments, along with estimates of the debt/equity ratios in the financing plans of the two project segments and an estimate of the cost of debt to each. The Commission also requests by that date expression of any objections to the Delegate's proposed procedures, along with the basis for any such objection.

The Commission has previously, in its September 15, 1978 Notice of Proposed Rulemaking, provided an illustrative IROR schedule for the Alaska segment. At this point, more definitive guidance with respect to IROR parameter values for both the Northern Border and Alaska segments would facilitate financing. It is for that reason that we are requesting the project sponsors to include estimates of debt/equity ratios and costs of debt when they file their tariffs.

A copy of the Delegate's report and covering memorandum is attached to this order. Further copies of the Delegate's report are available through the Commission's Office of Public Information, and have been served on the parties to the proceedings in Dockets No. CP 78-123, *et al.*, and RM-78-12. The project companies should also serve copies of their tariffs on parties to those proceedings.

The Commission orders: 1. The sponsors of the Alaskan and Northern Border segments of ANGTS should file their project company tariffs, as well as estimates of debt/equity ratios and costs of debt, with the Commission on or before March 12, 1979, and serve their filings on all parties to Docket Nos. CP78-123, *et al.*, and RM-78-12.

2. The Alaskan Delegate will serve copies of this Order and of his memorandum and report on all parties to Docket Nos. CP78-123, *et al.*, and RM-78-12.

3. Parties to Docket Nos. CP78-123, *et al.*, and RM-78-12, may file comments with the Commission on or before March 12, 1979, with respect to the procedures outlined in the Delegate's memorandum. Copies of the comments should be served on all parties.

[1] Issued in Docket No. RM78-12 on December 1, 1978 (43 FR 57649) and January 17, 1979 (44 FR 5929), respectively.

By the Commission.

KENNETH F. PLUMB,
Secretary.

FEDERAL ENERGY REGULATORY COMMISSION,

Washington, D.C., February 16, 1979.

Memorandum for: The Commission.
From: John B. Adger, Jr., Alaskan Delegate.
Subject: Attached Tariff Issues Report.

Pursuant to the Commission's directive in Order Nos. 17 and 17-A,[2] I am attaching my report on the status of the tariff issues for the Alaska gas project (project). In accordance with your directive, the report itemizes and discusses unresolved tariff issues in the context of the risk allocation framework during the operation phase of the Northern Border and Alaskan segments of the project.

My report also addresses the issue of the Operation Phase Rate of Return. In Order No. 17-A you envisioned the conduct of separate proceedings to determine initially the project company tariffs and subsequently the Operation Phase Rate. I believe my report illustrates that the interrelation of those matters warrants their joint resolution. Accordingly, I recommend that you consolidate your consideration of the Operation Phase Rate with that of the project companies' tariffs.

Regarding your consideration of the project companies' tariffs, my report notes that during the course of the hearings before the Federal Power Commission's (FPC's) Administrative Law Judge Nahum Litt, issues were raised in connection with a number of relatively minor tariff features, which issues are thought to be resolved. Additionally, the President in his *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to as the *Decision*) specified that the tariffs should:

—contain a variable rate of return provision,

—not require consumers to bear the risk of non-completion, and

—employ a cost of service formula rather than a stated rate.[3]

The Commission in its "Comments on the *Decision*" endorsed these conditions and provided some general guidelines which it would follow in exercising its authority to approve the tariffs.[4] I recommend examination by all parties, including the Commission staff, of the tariffs which are to be filed by the project companies to assure that they in fact reflect those resolutions.

In addition to the Operation Phase Rate of Return, there remain for resolution such issues relating to the project companies' tariffs as: the determination of the date on which the project companies shall commence billing their shipper-customers; the necessity of an interim rate to apply during the initial build-up phase of project operation; the adoption of a provision to reduce return on equity in the event of service interruption; and the selection of a period and a basis for determining the various cost elements to be included in the cost of service for the project companies.

The project companies' tariffs will of course have an important relation to the level of the Operation Phase Rate, and both factors will directly affect the financing of the Alaskan project. The tariffs are to present a detailed statement of the manner in which the operation of the project is to be conducted. They shall comprehensively specify operation practices, rate forms, billing and audit procedures and all other aspects of the project companies' relations with their customers. Because of this comprehensiveness, the project tariffs will be a major determinant in fixing the risk that will be borne by investors during the operating phase of the project. Accordingly, the prompt submission and review of the project companies' tariffs is critical to the timely determination of the Operation Phase Rate and to the overall financing of the project. I recommend that the Commission order the project companies to file their proposed tariffs on or before March 12, 1979, in order to allow the rate staff dequate time to assess the tariff in light of the record compiled before the FPC. In order to facilitate consideration of the Operation Phase Rate, you should request those tariff filings to contain an expected debt/equity ratio and an estimate of the cost of debt to each project.

In Order 17-A the Commission also requested that I report on schedules and procedures for determination of the Non-Incentive Rate and for the Change in Scope Procedure/Center Point/IROR Risk Premium-Marginal Rate. The work of The Alaska Gas Project Office since that time has revealed three likely results that I believe should guide further Commission action on these matters:

(1) the Project Risk Premium is not clearly separable from resolution of tariff matters or from the IROR Risk Premium;

(2) appropriate setting of the Center Point could eliminate much of any administrative burden associated with the Change in Scope procedure; and

(3) there is a tradeoff between the Change in Scope procedure and the IROR Risk Premium, much like that between the project company tariff and the Operation Phase Rate.

I expect to report to you on these issues and interrelationships in early March. Because of the inter-relationships, I recommend that consideration of as many of the remaining IROR issues as possible be consolidated into a single "rulemaking" type of proceeding to be initiated as soon as possible after March 1, 1979. As the project company tariffs for Northern Border and the Alaska segment should be filed at about that same time, consideration of the tariffs and their respective Operation Phase Rates could also be consolidated into one master proceeding to resolve essentially all the remaining IROR issues, based on some basic assumptions about the sponsors' financing plans.

I believe the Commission can and should conduct such a master proceeding through the use of rulemaking procedures. Serious negotiations with respect to financing the project cannot be made absent further guidance with respect to the IROR parameters. In presenting their comments, parties could freely utilize the record developed before Judge Litt in articulating their positions. Insofar as there is a need for the submission of additional materials, such materials could be appended to the filed comments and served on all parties.

I believe that disposition of all IROR issues on this basis is necessary and appropriate. A voluminous record was amassed before Judge Litt, which should be utilized to the extent possible. In addition, extensive comments regarding these issues were filed in the Incentive Rate of Return rulemaking in Docket No. RM78-12. Insofar as that record is insufficient for resolution of these issues, the Commission is obligated by the Alaska Natural Transportation Act of 1976 (Public Law 94-586) to establish procedures to cure such deficiencies in the most expeditious manner possible. The above rulemaking procedures are streamlined and are within the authority of the Commission as established by the Department of Energy Organization Act (Public Law 95-91) (hereafter DOE Act). Sections 402(a)(1)(C) and 403(c) of the DOE Act empower the Commission to utilize rulemaking procedures for the setting of transportation rates pursuant to Section 4 of the Natural Gas Act. The sole constraint on the use of those procedures is that they must assure the full consideration of the issues and an opportunity for interested persons to present their views.

It is my belief that, given the circumstances of this proceeding with its extensive prior litigation, the comment procedures outlined above satisfy the requirements of the DOE Act. Those procedures will facilities the presentation to the Commission of the voluminous materials necessary for review of all remaining IROR issues, and will simultaneously allow the full expression of views by all interested persons. Given this unlimited opportunity of expression, I would not anticipate the need for cross-examination of witnesses or for oral argument. If, however, a need for such proceedings is perceived by any party, with respect to any particular matters, a request therefor could be made at the time comments are filed. Any such request should specify the particular matters to be discussed, and the reasons that the comment procedures provide inadequate opportunity for presentation and development of those matters.

Finally, I suggest you use my tariff issues report as a framework for review of the project sponsors' tariffs and for setting the Operation Phase Rate. The Commission should also consider comments on the report itself. Such comments may address the sufficiency of the report, augment its discussion of the remaining issues, and specify any further unresolved issues. Comments on the Delegate's report should be filed concurrently with the comments on the Operation Phase Rate and the proposed tariffs. As my staff and I complete materials affecting other aspects of the IROR mechanism, we will file them with the Commission and distribute them to the public, as we are doing with the Report on The Tariff and Operation Phase Rate Issues. The objective of all of these materials will be to focus the comments to make them more useful to the Commission in resolving the remaining IROR issues.

REPORT OF THE ALASKAN DELEGATE ON TARIFF AND OPERATION PHASE RATE ISSUES

I. SCOPE OF THE REPORT

In Orders No. 17 and 17-A, The Federal Energy Regulatory Commission (Commission) requested the Alaskan Delegate to

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[2] Issued in Docket No. RM-12 on December 1, 1978 and January 17, 1979.

[3] Executive Office of the President, energy Policy and Planning, *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September, 1977, pp. 100-104.

[4] Federal Energy Regulatory Commission, "Comments on the *Decision and Report to Congress on the Alaska Natural Gas Transportation System*", October 1977, pp. 49-51.

report on the status of tariff issues for the Alaska gas project. This report should be "in the context of the risk allocation framework during the operation phase" and "should provide sufficient discussion to serve as framework for setting the Operation Phase Rate; as well as for acting on the project sponsors' proposed tariff" (Order No. 17-A, p. 6). Upon receipt of this report, the Commission intends to order filing of tariff applications, to request comments concurrently on the tariff applications and the Delegate's report, and then to expeditiously act on the tariff filings. The following analysis and discussion constitutes the report on the tariff and Operation Phase Rate of the Delegate required by the Commission pursuant to Orders No. 17 and 17-A.

In Order No. 17-A, the Commission indicates the important relationship between the project company tariff and the level of the Operation Phase Rate. The project tariff can materially influence the risk that will be borne by equity investors during the operation phase and thus affects the compensation for bearing this risk that must be provided in the Operation Phase Rate allowed by the Commission.

Order No 17 sets forth an incentive rate of return (IROR) mechanism that will be applied to the Alaska and Northern Border segments of the Alaska gas project. As part of the IROR mechanism, Order No. 17 defines a number of rate of return concepts including the Operation Phase Rate, the Non-Incentive Rate, the Center Rate, and the Marginal Rate. The Operation Phase Rate is defined to be the rate allowed during the operation of the pipeline after a one-time adjustment to the rate base and should compensate equity investors for only those financial and operating risks incurred during operation. Other risks incurred during the construction of the pipeline are to be compensated for through the Non-Incentive Rate. Risks resulting from the IROR mechanism are to be compensated through the Center Rate of Return. This report will not deal with any risks other than those during operation of the pipeline. As required by Order No. 17-A, the construction phase risks and the Non-Incentive Rate is to be the subject of a separate report by the Delegate.

The project tariff is a lengthy legal and operating document specifying how the company owning and operating a segment of the Alaska gas project will charge its customers (shippers) and the transportation service that the company will provide. The provisions of this tariff play a major role in determining the risks to the investors in the Alaska gas project and which risks are passed on to the shippers and their customers. This report will only deal with the tariffs for the two segments that will be project financed, the Alaskan and Northern Border segments. The Western Leg segment will be an expansion of an existing system built largely by the Pacific Gas Transmission Company which already has a cost-of-service form of tariff.

Other contractual relationships that play a major role in allocating risks among the various parties involved in an Alaska gas project include the gas sales contracts between the shippers and the producers of the gas at Prudhoe Bay and the tariffs of the individual shippers. Shippers are likely to be interstate natural gas companies and are likely to be equity investors in the project. The key issue concerning the shipper tariffs is the extent to which the shippers will be allowed to automatically pass on changes in the cost of transporting Alaska gas to their own customers without prior approval of the Commission. Some form of automatic tracking may be necessary to avoid delay and reduce risks to the shippers and investors in the project. However, the issues concerning the gas sales contracts and shippers tariffs are not the subject of this report and will not be discussed further.

This report covers two primary subjects. The first is an analysis of the major issues and alternative provisions in the project company tariffs. The evidentiary proceeding before Administrative Law Judge Litt (El Paso Alaska Company, Docket No. CP 75-96 *et al.*, referred to hereinafter as "the FPC proceeding") developed a substantial record, and the *Initial Decision* by the Administrative Law Judge (ALJ) offers a number of recommendations to the Commission concerning the tariff. The circumstances on which the ALJ based his recommendations, however, were subsequently altered by the President's *Decision*, which imposed a number of terms and conditions concerning the tariff (President's *Decision*, pp. 36-38). Consequently the findings of the ALJ may have to be reassessed in light of changed circumstances. By the end of the FPC proceedings, the project sponsors, the Commission staff, and other interested parties were able to reach agreement on a number of important tariff issues. This report will first briefly describe those features of the project tariff where there seems to be little disagreement.

Next this report will discuss the tariff issues where there is substantial disagreement and controversy. For each issue, alternative tariff provisions will be discussed and the effect of each provision on the operation phase risk, on the feasibility of private financing, and on consumers will be described. The positions of the various parties as presented at the proceeding including the recommendations of the ALJ will be summarized. Where relevant, later recommendations or requirements in the Federal Power Commission's *Recommendation to the President*, the President's *Decision*, and the Commission's *Comments* on the *Decision* will be presented.

The second major subject of this report is the financial risks borne by equity investors during the operation of the pipeline and the level of the Operation Phase Rate necessary to compensate for this risk. There is substantially less evidence on financial risks and rates of return than on the tariff issues. Little evidence was presented at the FPC proceedings. This was a subject reserved for a second phase of an Alaska gas proceeding after the preferred system was chosen from among the three competing proposals. The ALJ did make some recommendations about rates of return but these are only relevant for what is now called the Non-Incentive Rate rather than for the Operation Phase Rate which is the subject of this report (See *Initial Decision*, pp. 369-370). Also the requirement for an IROR mechanism and the limitation on any charges to consumers prior to completion in the President's *Decision* substantially change the risks to be borne by investors. Some discussion of rates of return was also provided in the comments on the two notices of proposed rulemaking concerning the IROR mechanism.

This report will describe the risks during operation for which the Operation Phase Rate must provide compensation and will compare the magnitude of these risks with the risks borne by investors in conventional pipelines in the lower 48 states. The form of the pipeline tariff allowed by the Commission, however, will play an important role in determining the magnitude of these risks.

II. RESOLVED TARIFF ISSUES

Cost of Service Tariff

In the FPC proceeding, the sponsors of the three competing projects, the Commission Staff, most other interested parties, and the ALJ concurred that the cost-of-service form of project tariff was required for private financing of this project instead of the more conventional fixed rate tariff. Later the Commission, in its *Comments* on the *Decision* (p. 50), accepted in principle the cost-of-service form of tariff. All tariffs for a regulated utility are based on the cost of rendering service but differ in the circumstances and procedures to be used to alter the rates charged for the service when costs increase or decrease.

Under a fixed rate tariff, a regulatory agency allows the utility to charge a schedule of rates based on the estimated cost of service. This schedule of rates remains unchanged until a new proceeding is conducted before the agency, and the agency allows the schedule to be altered.[1]

Under a cost-of-service form of tariff, as costs change the regulatory agency allows the utility to adjust its charges on a periodic basis in accordance with a formula approved by the agency. The formula specifies the costs that can be recovered under the tariff, the accounting principles to be followed in determining the schedule of rates, rates or return allowed on the investment, depreciation rates, and other parameters necessary for determining the cost of service. The agency also may audit the costs recovered to assure their reasonableness and prudency. Many tariffs are in fact a mixture of the fixed rate and cost of service tariff. Interstate gas pipelines generally are required to use a fixed rate tariff, yet can usually pass through automatically changes in the unit cost of purchased gas without filing a major rate change in which a complete cost of service study is submitted and litigated.

In general the various parties in the FPC proceeding accepted the need for a cost-of-service tariff because of the greater assurance it would give to financial investors that the cost of the project would be recovered without delay and that adequate funds would be available to cover operating costs, debt service, and the other fixed obligations of the pipeline. However, there was substantial disagreement about the precise form of this tariff, and these issues are discussed below.

Charges Prior to Completion of the System

During the FPC proceedings, two concepts were advanced that could result in charges to gas consumers prior to completion of the

[1] The specific procedure followed by the Commission for gas pipelines is the following. The pipeline files a new schedule, which goes into effect within six months of filing depending on whether and for how long the Commission suspends the new schedule. The schedule is subject to adjustments pursuant to a final Commission order thereon.

project. The first was some form of an "all events" tariff which would require gas consumers to pay a charge adequate to recover the debt investment and, possibly, the equity investment in the project in the event that construction of the project was started but never completed. In other words, consumers would provide a completion guarantee to investors (see *Initial Decision*, pp. 354 and 392).

The second concept is commonly described as inclusion of construction work in progress (CWIP) in the rate base during construction (see *Initial Decision*, pp. 393–400). Essentially, consumers would be asked to pay during construction for the interest cost of funds borrowed and a rate of return on equity invested This would be instead of adding these capital charges, commonly referred to as an allowance for funds used during construction (AFUDC), to the rate base of the project at the time of project completion to be recovered through charges to consumers during operation. Inclusion of CWIP in the rate base would reduce the financing requirements of the project.

Regardless of the merits or disadvantages of these two concepts, the President't *Decision* limits such tariff mechanisms in the second finance condition which states:

Neither the successful applicant nor any purchaser of Alaska gas for transportation through the system of the successful applicant shall be allowed to make use of any tariff by which the purchaser or ultimate consumer of Prudhoe Bay natural gas is compelled to pay a fee, surcharge, or other payment in relation to the Alaska natural gas transportation system at any time prior to the completion and commissioning of operation of the system. (President's *Decision*, pp. 37–38).

The exact definition of the phrase "completion and commissioning of operation", however, has not yet been specified and is discussed in the next section.

III. CONTROVERSIAL TARIFF ISSUES

Billing Commencement Date

As discussed in the previous section, the President's *Decision* limits charges to customers for the project prior to the "completion and commissioning of operation of the system." A major issue for the Commission is to define this phrase. The project tariff will specify when or under what conditions the pipeline company can begin to charge shippers of gas for their share of the cost of service of the pipeline. The Commission must determine if the project tariff is consistent with this condition of the President's *Decision* and other legal requirements.

Financial investors will carefully examine this billing commencement feature of the project tariff and the Commission's interpretation of the condition in the *Decision*. Investors will favor a tariff provision that provides the greatest certainty that the tariff will go into effect as soon as possible in order to reduce the financing requirements for the project and to initiate the recovery of capital. Long delays in the initiation of charges to customers adds to financial charges during construction (AFUDC) and strains the ability of the investors to raise the funds necessary to finance the project. In view of the stringent conditions imposed by the *Decision* concerning financing (prohibition of consumer or taxpayer guarantees), the report accompanying the *Decision*, in any case, notes that ". . . skillful financial packaging and risk-benefit balancing will be required" (*Decision*, p. 106).

There are at least four interpretations of this condition in the *Decision* concerning billing commencement date:

I. Charges to gas consumers may begin when all segments of the project are complete and gas is being transported. (In the event of "prebuilding" the southern segments to carry Alberta gas, charges may begin for these segments in advance of completion of the other segments.)

II. Charges may begin when all segments are capable of rendering service even if, for whatever reason, gas is not being transported. (In the event of "prebuilding" the southern segments to carry Alberta gas, charges may begin for these segments in advance of completion of the other segments.)

III. Charges may begin for each particular segment of the system when that segment is capable of rendering service even if, for whatever reason, other segments are not capable of rendering service or gas is not being transported.

IV. Charges may begin at a date certain to be specified by the Commission even if none of the segments is capable of rendering service or gas is not being transported.

Clearly the third or fourth definition would provide greater assurances to investors that the project would generate revenues without long delay. The following will analyze each of the four definitions in turn.

The Commission Staff seemed to favor definition I (all segments complete and transporting gas). This definition would clearly satisfy the requirement in the *Decision* and the Natural Gas Act. Alcan Pipeline Company (the predecessor company to the current sponsor of the Alaska segment of the project, Alaskan Northwest) argued that the Commission may have no legal authority to place a tariff into effect until the company is a "Natural Gas Company" pursuant to the Natural Gas Act (*Initial Alcan Tariff Brief*, p. 17). Section 2(6) of the Natural Gas Act defines a natural gas company as a "person engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale." Consequently, it may be unlawful for a project company to charge shippers pursuant to an FERC approved tariff until gas is actually being transported.

With respect to definitions I and II, the phrase "completion and commissioning of operation of the system" must be read in conjunction with the predelivery of Alaskan gas using Alberta gas transported through southern segments built in advance of the northern segments contemplated in the President's *Decision* (pp. xii and 92). Thus the *Decision* should be read to authorize charges for the delivery of Alberta gas through the prebuilt southern segments even though the northern segments have not yet been completed.

Definition I imposes a major financial risk on the investors in any one segment. Each segment will be owned by a separate legal entity distinct from the shipper companies and independent of the producers. Definition I would impose the risk on each segment of a long delay in receipt of revenues or conceivably a complete loss of revenues because (a) another segment was delayed in completion or (b) production from Prudhoe Bay was delayed. It could be argued that investors in a company owning one segment should not be penalized for failure of another company to complete its segment or to produce the gas at Prudhoe Bay.

Definition II (all segments complete) would not hold investors in the pipeline responsible for delays in the startup of gas production from Prudhoe Bay but would penalize investors in any one segment for delays in startup of another segment. From the investors perspective, this reduces risks compared to Definition I but still treats the entire system as a single entity ignoring differences in ownership between segments and the fact that some segments will be in Canada.

Definition III (a particular segment complete) may be consistent with past practice in lower 48 pipelines. The emphasis in regulation of new additions to gas plant for lower 48 companies has been to assume that new facilities are added to gas plant in service and thus accrual of AFUDC ceases "when the facilities have been tested and are placed in or ready for service" regardless if the addition is actually rendering service (see Accounting Release Number AR5 (Revised), effective January 1, 1978). An early "inservice date" has been advocated in the past for pipelines since it reduces the AFUDC included in the rate base. This definition would recognize that each segment will be a separate legal entity with different investors. Such a provision would also protect investors in U.S. segments from any financial hardship which might be imposed by delays in Canada, if such should occur.

Definition IV (date certain) would provide the greatest certainty to investors that delays would not impair the financial of the project. Such a billing comencement date is not unprecedented. Alcan has argued that the Commission has allowed tariffs for nuclear power plants to take effect on a date certain, for example, the Yankee Atomic Power Company (*Initial Alcan Tariff Brief*, p. 16). Alcan's tariff proposed in the FPC proceedings would commence billing when the Alaska facilities were complete or, in any event, no longer than four years after the beginning of construction (*Initial Alcan Tariff Brief*, p. 13). This definition, however, seems to clearly violate the intent of the *Decision* to bar charges commencing prior to "completion and commissioning of operation" and could probably not be defended as a valid interpretation of the *Decision*.

Interim Rate/Phasing

During the FPC proceedings, two proposals were made to reduce charges during the early months of operation when gas throughput may be less than the design capacity of the system due to the time necessary to start up production at Prudhoe Bay or operation of the pipeline. Arctic Gas proposed a phasing method where some portion of depreciation expense and return on rate base would be deferred until full capacity throughput was reached (See *Reply Brief of Arctic Gas*, p. 5). The Commission Staff argued instead for an interim rate where a fixed reduced charge per unit of gas would be levied on the smaller initial volumes (*Initial Staff Tariff Brief*, p. 5). This revenue would be a credit against the construction work in progress account and thus the rate base of the project when full through-put was achieved. The interim rate would last no longer than one year.

In the tariff proposed by Alcan in its initial application to the Commission, no interim rate or phasing was proposed (see *Initial Alcan Tariff Brief*, p. 18). Shippers would be

expected to pay for their contractual share of the cost of service of the pipeline when the facilities are capable of rendering service. In other words, full charges to shippers would commence when the pipeline was complete even though throughput may be at reduced levels or nonexistent.

The criticism of this provision is that early consumers of Alaska gas could be asked to pay a very high transportation cost per unit of gas or to pay even if no gas is being transported. Also marketability of the gas could be impaired by the high initial cost. However, it must be noted that this pipeline is only a contract carrier for the shippers and is not a purchaser of Alaska gas. If investors in the pipeline are held responsible for delays or inability of shippers to tender gas for transportation when the pipeline is able to render service, their risk is substantially increased.

A major advantage of Alcan's proposal is that it would assist in financing. The threat of a long period of either no revenue or only partial revenues after construction was complete increases the total financial investment in the project and postpones payment of principal and interest on the debt investment. Also an interim rate or phasing of charges increases ultimate costs to consumers by increasing financing charges or AFUDC in the rate base and the Operation Phase Rate.

The ALJ found the interim rate proposal superior (*Initial Decision*, p. 409). However, again his decision was in the context of assumed consumer or government investment guarantees. In light of the much more difficult task of financing this project resulting from the President's *Decision*, the Commission's need to provide a favorable environment for financing may require approval of a tariff that does not require an interim rate or phasing. The probability is small that there will be a long period of reduced throughput after construction is complete and thus inclusion of an interim rate will most likely be of little or no net benefit to consumers. However, the risks to investors will be reduced by elimination of an interim rate provision, and this will materially assist financing.

Penalty for Service Interruption

Almost without exception all parties to the proceedings including the project sponsors agreed to some form of penalty to equity investors if the pipeline was unable to fulfill its contractual obligation to transport Alaska gas. Such penalties were endorsed by the ALJ (*Initial Decision*, p. 404) and the FPC in its *Recommendation to the President* (p. XII-43). A penalty would provide economic incentives for the pipeline owners to assure continued uninterrupted service. The major concern, however, of the various project sponsors is that the penalty should not be so severe or in a form that would jeopardize the financing of the project. If the penalty on the return to equity was so severe that debt investors felt debt service or even debt coverage might be significantly impaired, then the project sponsors' ability to privately finance the project could be impaired.

The sponsors of the Alcan project in the FPC proceeding argued that the return on equity should be reduced in proportion to the reduction in service if the reduction in service for any one month is greater than 20 percent of the contract quantity in the agreements with the shippers. In other words, if the pipeline was only able to carry 80 percent or more of the contract quantity there would be no reduction in return on equity. However, if the pipeline capacity was reduced to less than 80 percent over a one month period, for example, 70 percent, then the return on equity (and related income taxes) would be reduced proportionately, for example, reduced to 70 percent of its normal level for that month. After a service interruption, the pipeline would have an unlimited period to try to recover the loss in equity return by transporting more than the contracted quantity if the shippers were willing to tender excess quantities. The make-up quantities for which the pipeline suffered no loss in return on equity would be transported first and then the quantities for which the pipeline did suffer a reduction in return on equity.

The Commission staff argued that the reliability of pipeline operations is such that a penalty to equity return should begin when the ability of the pipeline to render service is reduced below 100 percent of the contracted quantities, in other words, no leeway or cushion should be allowed before the penalty takes effect. Judge Litt compromised on a level of 90 percent between the sponsors request for 80 percent and the staff's recommendation of 100 percent (*Initial Decision*, p. 404). The ALJ further would restrict the period of make-up transportation to no more than one year as opposed to the sponsors request for an unlimited period for make-up of the deficiency in transportation and return on equity.

A much more controversial modification to the project tariff, however, was recommended by the ALJ. Based on his belief that equity investors should be subject to the risk of a complete loss of their investment in the event of a prolonged inability of the project to transport gas at the contracted quantities, he stated that "* * * it may be necessary to modify the cost-of-service tariff of the transporter to assure that collection of the depreciation charge does not recover equity capital during periods of prolonged continuous outage. A 'grace period,' not to exceed 30 days, for example, would be appropriate, after which the opportunity to recover equity capital would not recur until such time as service resumed. To the extent that lost service could be made up by excess deliveries within one year, shippers should pay additional charges to reimburse the disallowed equity recovery." (*Initial Decision*, p. 392).

This recommendation was discussed but not endorsed in the FPC's *Recommendation* to the President (p. XII-43) as part of two hypothetical financing plans.

In addition to substantially increasing the risk to equity investors and thus requiring a higher Operation Phase Rate, this recommendation also could substantially increase risks to debt investors. Debt repayment or retirement will be at higher rates than the normal 4 or 5 percent depreciation rate allowed for tariff purposes. Thus, during the earlier years of operation, debt repayment may be larger than the total allowed depreciation charges of the project. Consequently, any reduction in the depreciation charges allowed to be recovered through charges to shippers could impair debt service. The ALJ's recommendation, to be accepted by investors may have to be conditioned or modified so that debt service would not be impaired.

Even with this modification, debt coverage ratios could be substantially reduced. Debt investors are concerned about protection of their investment in highly unlikely situations. Even if the tariff approved by the Commission would allow the project to levy charges on shippers adequate for debt service in all events, debt investors may be concerned that the pipeline may be unable to actually collect all of the revenues allowed by the tariff. For protection against this event, they look for adequate debt coverage or a cushion of revenues in excess of those required merely for debt service. Judge Litt's recommendation would greatly reduce debt coverage during a prolonged service interruption. Further, the *Initial Decision* is based on the assumption of both consumer and government guarantees of debt. Without these guarantees, his recommendation concerning prolonged service interruptions may no longer be consistent with private financing of the project. For these reasons, the Commission must examine very carefully the implications for financing in its consideration of this matter.

Billing Procedure

During the FPC proceedings, two alternative procedures were proposed to calculate the charges for transportation services to be paid by the shippers. The first would be to estimate the cost of service of the pipeline over a future six month period and then fix a constant monthly charge to recover this estimated six month cost of service. In the event that the estimate deviated from the actual cost of service, any accumulated undercharge would be added to, or any overcharge subtracted from, the charge levied over the following six month period.

The second approach advocated by the Commission staff would be to simply bill shippers monthly for the actual costs of service incurred during the previous month (*Staff Initial Tariff Brief*, p. 6). This could result in charges changing from month to month but would avoid any overcharging or undercharging.

The arguments either for or against these two alternatives do not seem especially compelling. The advocates of the estimated billing procedure argued that this would be preferred by the shippers and was needed to assist them in flowing through costs in their proposed transportation cost adjustment clauses. As indicated above, the issue of tracking costs through the shipper tariffs is not addressed in this report. However, if the Commission does allow tracking of Alaska gas transportation costs, this may be an argument in favor of the estimated cost billing procedure. Even in this event, shippers' concern about the need for the estimated cost billing procedure may have largely been eliminated by recent Commission changes to the purchased gas adjustment clauses which allow interest or carrying charges to be earned on deferred purchased gas cost balances (see Order No. 13).

The ALJ found "nothing illegal or unfair" about this estimated cost billing procedure and that "no party has shown adequate justification for rejecting this procedure" (*Initial Decision*, p. 408). If the sponsors of the Alaska gas project desire to utilize this estimated cost billing procedure, there seems to be little justification for not allowing them to do so.

Miscellaneous Tariff Issues

During the course of the hearings, the Commission staff objected to a number of other relatively minor features of the various tariffs proposed by the sponsors of the competing applications. Later in the hearings, the sponsors of the three projects modified their tariffs to accommodate some of the objections of the staff. The ALJ, in general, concluded that these adjustments proposed by the staff should be made (*Initial Decision*, p. 410). When the sponsors of the Alaska gas project file their revised tariff with the Commission, it should be examined to see if the sponsors have accepted the changes advocated by the staff and approved by the ALJ.

IV. OPERATION PHASE RATE

Analytical Approach

The Operation Phase Rate according to Order No. 17 shall be set by the Commission "within the general range of rates of return for other pipelines with similar operating risks" (Terms and Conditions No. 12). In setting an Operation Phase Rate for each segment of the system, the central issue is the financial and business risks faced by investors in this pipeline during operation compared to the average or typical interstate gas pipeline.

A review of rate cases over the last three years indicates that the average rate of return allowed by this Commission for gas pipelines has been aproximately 13 percent and the average proportion of common equity in the capitalization has been approximately 45 percent. The question for the Commission to resolve is whether the risks during operation of the Alaska gas pipeline compare to the normal or typical lower 48 pipeline justify a rate of return higher or lower than the average of 13 percent.

The Operation Phase Rate only provides compensation for risks during actual operation of the project. The risks borne during the construction of the project are to be compensated for through the Non-Incentive Rate of Return. The difference between the Non-Incentive Rate and the Operation Phase Rate is the Project Risk Premium. Pursuant to Order No. 17-A, the Non-Incentive Rate shall be the subject of a separate report from the Alaska Delegate. Risks created by the IROR mechanism itself are to be compensated for by the Center Rate of Return which exceeds the Non-Incentive Rate by an amount equal to the IROR Risk Premium.

Definition of Risk

Though an analysis of risks to investors is a common approach to analyzing the rates of return required for investors in regulated utilities, the concept of risk used is often imprecise or loosely defined. For purposes of this analysis, it is useful to distinguish between two broad categories or types of risk.

Risk for gas pipelines in general is the result of certain events that may cause actual or realized rates of return to deviate from the rate of return allowed by the Commission. A precise measurement of risk requires knowing the probability of such an event and the effect that this event would have on the rate of return. In practice, listing all of the future events that could cause rates of return to fluctuate is impossible as is the measurement of the probability that a particular event will occur.

A categorizing of risks is, in effect, a categorizing of those events that could cause rates of return to fluctuate. Broadly speaking, the first and most important category of events are those that would cause the realized rate of return to fall below the allowed rate. For example, suppose that the probability of Event A occurring in any one year on the Alaska gas pipeline is 10 percent. Suppose also that if Event A does occur, the realized rate of return for that year will be reduced by three percentage points (three hundred basis points) from the allowed rate. Further suppose that this event would never occur in a lower 48 pipeline. In order to provide minimum compensation for the risk of Event A occurring, the Commission should increase the allowed rate for the Alaska pipeline by 0.3 percentage points (30 basis points) over the rate allowed for other pipelines ($0.3 = .10 \times 3.0$). On the average taking into account the probability of Event A occurring, the investor in the Alaska gas pipeline would then earn no more or no less than an investor in a typical pipeline.

The second category of risky events are those events which are just as likely to increase the realized rate of return as to lower it. Such an event creates general uncertainty about the realized rate but does not bias the realized rate either down or up. It is generally recognized that some compensation to investors should be given for greater variance in rates of return even though the realized rate is just as likely to be above the allowed rate as below it. In other words, investors prefer a certain return rather than a return that could fluctuate both up and down. The compensation for this type of risk, however, should be much less than for the first category of risky events discussed above.

Ideally, the Commission should have before it a complete listing of the various events that could cause the realized rate to deviate from the allowed rate, the probability of that event occurring, and the effect of the event on the rate of return. In practice, one can hope for a partial identification of some of the events with a subjective guess as to the probability of the event occurring. What makes any analysis of the risks faced by investors in the Alaska gas project so difficult is that there is very little data or experience to judge the number, probability, or impact of these risky events. The following analysis will attempt to identify those events that could cause the realized rate to fluctuate and to estimate the financial risk to investors from each of these events for both the Alaska project and the normal or average lower 48 pipeline.

Changes in Cost

Fluctuations in the cost of service of a pipeline resulting from changes in operating and maintenance costs, changes in financial costs, or any other component in the cost of service will mean an increase or decrease in the return to equity until a change in rates is approved by the Commission (fluctuations in throughput are considered in the next section). Under the normal or fixed-rate tariff, the typical lower 48 pipeline may experience a regulatory lag in the approval by the Commission of a change in rates to compensate for a change in costs. Under the cost-of-service tariff proposed for the Alaska gas project, there would be no lag.

Thus there is some risk that a lower 48 pipeline may realize a rate of return above or below the allowed rate for some period until the Commission acts. Because inflation increases pipeline costs as well as other costs, there seems a greater probability that actual costs will be above estimated costs and thus the realized rate will be below the allowed. The cost-of-service tariff for the Alaska gas project provides a high degree of protection against this risk. Thus the risk resulting from fluctuating costs is somewhat less for the Alaska gas pipeline compared to the typical pipeline.

Changes in Throughput

Unanticipated changes in throughput will result in changes in cost of service per unit of throughput and may alter the revenues and earned rates of return depending upon the form of the tariff. The Alaska gas project will differ substantially from lower 48 pipelines both in the events that could cause a fluctuation in throughput and the tariff treatment of the fluctuation.

A pipeline can experience a decline in throughput either from some production problem in the field that temporarily or permanently reduces daily deliverability or from the exhaustion of proven reserves without sufficient new discoveries to offset the decline. Since the typical lower 48 pipeline derives its supply from a number of different fields and reservoirs, it is not likely that the pipeline would experience a major decline in throughput because of field deliverability problems. However, the Alaska gas project will be supplied primarily by the enormous reserves at Prudhoe Bay. There is little production experience for this reservoir, and there is a small probability that the field may not be able to produce at the level of 2.4 BCFD anticipated in the *Decision* (p. 89).[6] Further, all gas will be processed and conditioned at a single facility which could experience operating problems.

A decline in throughput to reserve depletion has a much higher probability of occurring for a lower 48 pipeline than for the Alaska gas project. In recent years the trend for most lower 48 pipelines has been declining production. Prudhoe Bay, by all accounts, has adequate reserves for at least 20 years of production a the rate of 2.4 BCFD.

If a decline in throughput occurs, a lower 48 pipeline could experience a temporary reduction in return on equity because of the lag in applying for and receiving a rate increase. However, the period of suspension for rate increases imposed by the Commission is usually five months or less. Also most pipeline tariffs utilize a demand charge to recover a portion of the fixed costs of the pipeline. This demand charge would not be reduced due to a reduction in throughput thus mitigating the reduction in revenues return on equity. The cost-of-service tariff for the Alaska gas project will eliminate any regulatory lag and thus provide a high degree of protection against the risk of decline in throughput.

Though the Commission will allow rates to increase as throughput declines for both lower 48 pipelines and the Alaska gas proj-

[6] See the very extensive testimony and exhibits on this subject in the record of the hearings before the Senate Committee on Energy and Natural Resources at the time of consideration of the President's *Decision*. Alaska Natural Gas Transportation System, Hearings before the Committee on Energy and Natural Resources, United States Senate, September 26, 27, October 11, 12, and 25, 1977. (Publication No. 95-73)

ect, eventually marketability problems may arise. A concern often voiced by lower 48 pipeline companies is that declining reserves to production ratios may eventually result in low levels of throughput and thus an inability to recover their investment in the pipeline. This could happen if the high unit costs of transportation result in the gas being unmarketable and thus the companies are unable to sell the gas at the rates allowed by the Commission. The Office of Regulatory Analysis from the Commission's staff has argued that the Commission has increased allowed rates of return by 2.5 percentage points in recent years to compensate for this risk (see *Comments on the Revised Notice*, pp. 5–8).

The Alaska gas project will also face a similar or even larger risk because of the high costs of transportation. If production problems should occur at Prudhoe Bay, the cost-of-service tariff will allow an automatic increase in cost per unit of throughput. However, shippers and distributors may find it difficult to market the gas since the transportation costs for the Alaska gas even at full throughput will be substantially higher than other gas because of the large construction costs.

In conclusion, the risk of declining throughput due to reserve depletion is higher for the conventional lower 48 pipeline, the risk of declining throughput due to production or deliverability problems is greater for the Alaska gas pipeline, the cost-of-service tariff for the Alaska gas project provides greater protection against the risk of decline in throughput, but marketability problems resulting from reduced throughput are greater for the high cost Alaska gas. On balance it seems that the risk to investors due to fluctations in throughput are modestly greater for lower 48 pipelines.

Service Interruption

All pipelines face the possibility that operating difficulties may reduce the capacity of the pipeline to transport gas. For a conventional lower 48 pipeline, the financial penalty for a severe service interruption can be large. A reduction in the amount of gas that can be delivered reduces revenues but less than in proportion to the reduction in throughput due to the demand charge in the typical tariff. If the service interruption is of long duration, the pipeline company could request a rate increase to allow charges on the remaining throughput to cover the cost of service.

This penalty for service interruption seems substantially more severe than contemplated for the Alaska gas pipeline by the project sponsors. As discussed previously, the project sponsors propose a service interruption provision in the tariff that would only reduce equity return proportionately to the service interruption and only for that segment which experienced the service interruption.

On the other hand, the probability of a service interruption on the Alaska gas project seems much higher than for the typical lower 48 pipeline. The Alaska gas project will be traversing a new environment for which there is little operating experience. Problems of frost heave, thaw settlement, weather induced maintenance and operating problems could mean a much greater incidence of service interruption. Also the Alaska gas project will be a single pipeline instead of the looped systems common in the lower 48. The probability of a single pipeline experiencing a major service interruption is higher than a looped system with its built-in redundancy and duplication of components.

In conclusion, the penalty for service interruption is much higher for lower 48 pipelines but the probability of service interruption is much higher for the Alaska gas project. On balance, it is difficult to decide which bears the greater financial risk due to service interruption.

Marketability Problems

A basic element of the financing plan for the Alaska gas project is the construction of a chain of contracts and other legal obligations that assures the flow of revenues from the ultimate consumer of natural gas, through the distribution companies and the interstate pipelines who are the shippers of the gas, and back to the project itself. However, there is a risk that events we can only barely imagine now might break that chain and cause a reduction in revenues to the project below that necessary to cover the full cost of service. In such an event, the equity investors would be the first to experience a reduction in return.

The most likely event that could cause a reduction in revenues is if it became difficult to market or sell the gas in the face of competition from other energy sources. Rolled-in pricing reduces this risk but does not eliminate it. Over the next 25 years, a sudden breakthrough in energy technology that reduced real energy prices is one example of an event that could endanger the marketability of the Alaska gas. This is a risk that is substantially greater for the Alaska gas project than for conventional lower 48 pipelines because of the higher transportation costs for Alaska gas.

Equity Capitalization

Though not strictly a risky event that could reduce or increase rates of return, the capital structure of the project plays an important role in determining the risk to equity investors. A small proportion of equity in the capital structure, i.e. a low equity ratio, means that any fluctuations in revenues due to any of the events described above would be multiplied into a large fluctuation in return to equity. Debt service and operating expenses must be paid before return to equity. Thus any fluctuations in revenue must be borne to the extent possible first by equity investors.

As an example, consider two capital structures for the Alaska gas project, a 0.25 equity ratio which is proposed by the sponsors and, 0.45 which is the average for lower 48 pipelines. During the first years of operation, a five percent reduction in revenues would reduce return to equity by approximately 32 percent in the case of a 0.25 equity ratio but only 20 percent in the case of a 0.45 ratio. Thus the risk to equity investors for the Alaska gas project increases substantially due to the low equity ratio compared to the typical lower 48 pipeline.

A low equity ratio, however, substantially reduces costs to consumers. A 0.25 ratio and 13 percent return on equity would reduce the cost of service for the project by approximately 20 percent in the early years of operation compared to a 0.45 ratio and a 13 percent return. The Commission could grant a substantial increase in rate of return to compensate for the risks created by the low equity capitalization without increasing the total cost of service compared to more conventional capital structures and rates of return.

JOHN B. ADGER, JR.,[1]
Alaskan Delegate.

FEBRUARY 2, 1979

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3. *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, Executive Office of the President, Energy Policy and Planning, September 1977.
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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1067-5]

APPLICATION FOR METHYL TERTIARY BUTYL ETHER

Decision of the Administrator

I. INTRODUCTION

Section 211(f) of the Clean Air Act (Act), 42 U.S.C. 7545(f) (1977) contains prohibitions and limitations on the introduction into commerce of controlled fuels and fuel additives.[1] Sec-

[1] Corrected—February 5, 1979. Further Corrected—February 16, 1979.

[1] Section 211(f) makes it unlawful upon March 31, 1977 "for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles

Footnotes continued on next page

tion 211(f)(1) prohibits, after March 31, 1977, any manufacturer from first introducing into commerce or increasing the concentration in use of any controlled fuel or fuel additive. Section 211(f)(3) prohibits any manufacturer which first introduced into commerce or increased the concentration in use of any controlled fuel or fuel additive between January 1, 1974 and March 31, 1977, from distributing such fuel or fuel additive in commerce after September 15, 1978.

Waivers may be obtained for any of the section 211(f) prohibitions or limitations. Section 211(f)(4) provides that the Administrator of the Environmental Protection Agency (EPA), upon application of any manufacturer of a fuel or fuel additive, may grant a waiver if he determines that the applicant has established that the fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or fuel additive or specified concentration thereof, will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver is granted by operation of the Act.

I have received an application for a section 211(f)(4) waiver for methyl tertiary butyl ether (MTBE). The application for MTBE, for a concentration range of 0 to 7 volume percent, was received on August 28, 1978, from Atlantic Richfield Company (ARCO).[2] ARCO concluded from the data it submitted that unleaded gasoline containing up to 7 volume percent of MTBE and its emission products do not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. The 180 day review period for the ARCO application expires February 24, 1979.

Although not required, a public hearing[3] on this application was held on September 6, 1978, in Washington, D.C., and the thirty day comment period following the hearing ended on October 6, 1978.

II. Summary of the Decision

I have determined that ARCO has met the burden under section 211(f)(4) necessary to obtain a waiver for MTBE in the concentration range of 0 to 7 volume percent.[4]

ARCO and other interested parties have submitted data on MTBE primarily at concentrations of 3 and 7 volume percent. I find that the data presented on MTBE are sufficient to establish that MTBE in a concentration range of 0 to 7 volume percent and the emission products of MTBE when used in this concentration range will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I, therefore, grant the waiver request allowing the introduction into commerce of MTBE in unleaded gasoline in the concentration range of 0 to 7 volume percent provided the volatility properties of the unleaded gasoline containing MTBE are within the limits of the American Society for Testing and materials (ASTM) unleaded gasoline specifications.[5]

III. Method of Review

In order to obtain a waiver for MTBE in a concentration range of 0 to 7 volume percent, the applicant must establish that MTBE in that concentration range and the emission products of MTBE when used in this concentration range will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. This burden, which Congress has imposed upon the applicant if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, it is recognized that reliable statistical sampling and fleet testing protocols could safely be used to demonstrate that a fuel or fuel additive under consideration would not cause or contribute to failure of emission standards by vehicles in the national fleet.

Data submitted with respect to a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that a fuel or fuel additive will have on emissions. The statistical tests applied to the emission data provided in support of this MTBE waiver request are: a Paired Difference Test, Sign of Difference Test, and a test which compares the deteriorated emissions with the emissions standards (hereafter, Deteriorated Emissions Test).

The following is a brief description of the statistical tests utilized to characterize the emissions effect of MTBE:[6]

(1) The Paired Difference Test

For each vehicle tested on a base gasoline and an MTBE containing fuel, the difference between the MTBE fuel emissions and the base fuel emissions was calculated. A 90% confidence interval was constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from MTBE. If the entire interval is above zero, it is indicative of an adverse effect from MTBE. If the interval contains zero, there is arguably no difference between the base fuel and the MTBE containing fuel with regard to emissions provided the confidence interval is small.

Footnotes continued from last page

manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 [of the Act]."

[2] Another application for MTBE, for a concentration range of 5 to 15 volume percent, was filed by Petro-Tex Chemical Corporation on June 30, 1978. This waiver request was denied by the Administrator on December 26, 1978. The denial of the waiver request was based on an insufficient amount of data to establish that MTBE in the concentration range of 5 to 15 volume percent did not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standard with respect to which it has been certified. The decision was not made on the effects of MTBE on vehicle emissions. *See*, 44 Fed. Reg. 1447 (1979).

[3] *See*, "Gasohol and MTBE Waiver Request: Public Hearing," 43 Fed. Reg. 36686 (1978). The public record (record No. MSED-211(f)-MTBE) is available for public inspection in the Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street, S.W., Washington, D.C. 20460. This record contains all the information considered in this decision.

[4] In determining whether an applicant has established his burden, the Administrator may look at all of the available data including data provided by persons other than the applicant.

[5] Standard Specification for Automotive Gasoline, Annual Book of ASTM Standards-1978, Part 23, D 439-78, p. 226.

[6] A more detailed description of these tests and their background may be found in the 'Characterization Report—Analysis of fuel Containing Methyl Tertiary Butyl Ether (MTBE) to Characterize the Impact of 0% to 7% Concentration of MTBE on Emissions Performance" (hereafter Characterization Report) at 4.

(2) THE SIGN OF DIFFERENCE TEST

For each vehicle tested with a base gasoline and an MTBE containing fuel, the sign of the emission difference between MTBE fuel emissions and base fuel emissions was ascertained. This test is designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with MTBE significantly (at a 90% confidence level) exceeded those showing a decrease (−) in emissions with MTBE.

(3) THE DETERIORATED EMISSIONS TEST

For each vehicle, the effect MTBE had on emissions was determined. This incremental effect, either positive or negative, was added to the 50,000 mile certification emission value for the certification emission vehicle which the test vehicle represented. This incremented 50,000 mile emission value was compared to emissions standards to determine if it did or did not exceed the standards. Either a pass or fail was assigned accordingly. The pass/fail results were analyzed using a one-sided sign test.[7]

The first two methods of analysis are designed to determine whether the fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the additive containing fuel. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard.[8] It is useful to perform this analysis even if the first two analyses indicate the fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the fuel or fuel additive, thus causing vehicles to fail to meet standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

An alternative to providing the amount of data necessary to meet the statistical requirements, is to make judgments based upon a reasonable theory regarding emissions effect supported by confirmatory testing. If there exists a reasonable theory which predicts the emission effect of a fuel or fuel additive, an applicant only needs to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory and confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the fuel or fuel additive will cause or contribute to the failure of any emission control device or system to achieve compliance by the vehicle with emissions standards.

IV. NATURE OF THE TEST DATA

The varying nature of fuels and fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. A fuel or fuel additive which is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require 50,000 mile durability testing to determine whether such effects exist.

On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests on the same vehicle.[9]

It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both durability emissions data and instantaneous emissions data may be required.

Upon examination of the available data on material compatibility and the chemistry of MTBE, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision.[10] A reasonable estimate of a test vehicle's emissions performance on MTBE can be obtained using back-to-back emission test data in lieu of requiring 50,000 mile durability testing.[11]

V. ANALYSIS

A. EXHAUST EMISSIONS

Exhaust emission data were submitted on 17 vehicles tested on a base fuel and a fuel containing 3% MTBE and 35 vehicles tested on a base fuel and a fuel containing 7% MTBE.[12] When vehicles tested on the base fuel meet standards and fail to meet standards when tested on the MTBE containing fuel, MTBE is deemed to cause the failure of vehicles to meet standards. When vehicles fail to meet standards on the base fuel and the MTBE containing fuel, and the MTBE containing fuel is shown to have an adverse effect on emissions as compared to the base fuel, MTBE is deemed to contribute to the failure of vehicles to meet standards.

Summarized below are the results of three statistical tests at concentrations of 3% and 7% MTBE. Tests 1 and 2 are designed to determine whether MTBE has an adverse effect on emissions. Test 3 is designed to determine whether MTBE causes vehicles to fail to meet standards.

1. The Paired Difference Test

Listed below are the 90% confidence intervals around the mean difference between the base fuel and the MTBE containing fuel emission level.

a. 3% MTBE Fuel

(1) Hydrocarbon (HC) −0.09 to 0.06
(2) Carbon Monoxide (CO) −1.77 to 0.11
(3) Oxides of Nitrogen (NOx) −0.28 to −0.09

b. 7% MTBE Fuel

(1) HC −0.10 to 0.00
(2) CO −2.78 to −0.83
(3) NOx −0.13 to −0.01

2. The Sign of Difference Test

Confidence that an MTBE containing fuel will cause an increase in emis-

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[7] For purposes of analysis, this test was designed such that the risk of being denied a waiver would be at least 90% if 25% or more of the represented fleet fails to meet emission standards. This approach is related to the approach applied to the vehicle manufacturers under the vehicle assembly line selective enforcement audit procedures. While a more conservative 20% noncompliance rate has been used in some past characterization analyses, 25% is more consistent with the selective enforcement audit procedures and was used in the characterization of ARCO's waiver request for Arconol. *See*, 44 Fed. Reg. 10,530 (1979).

[8] The appropriate Federal or California standard is applied according to whichever standard the manufacturer intended the vehicle to comply with.

[9] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on a base fuel containing the additive or the waiver request fuel.

[10] This conclusion is reached from an examination of the available material compatibility information, *see*, section V(C)(1), *infra*, and the judgment that the emissions effect of MTBE is of an instantaneous, not a deteriorative nature.

[11] ARCO and Texaco, Inc. did provide limited durability test data. The results were supportive of our judgment that 50,000 mile test data should not be required. *See*, MSED-211(f)-MTBE-3 (ARCO) and MSED-211(f)-MTBE-5 (Texaco). A discussion of these data can be found in the Characterization Report at 10.

[12] *See*, Table 1 in the Characterization Report for a description of the vehicles utilized in the test programs. One vehicle was tested on a 5% MTBE fuel. One test vehicle is not sufficient to draw any conclusions of the effect of MTBE. There were also data submitted at 10% and 15% MTBE, but since the data were at concentrations outside of this waiver request they are not included in this decision. All data submitted are discussed in the Characterization Report.

sions over the base fuel based on the observed increases out of the total vehicles tested (in parentheses) are stated below.

a. 3% MTBE Fuel

(1) HC (5/16) 3.84% confiedence of an increase [13]
(2) CO (6/17) 7.17% confidence of an increase
(3) NOx (4/17) 0.64% confidence of an increase

b. 7% MTBE Fuel

(1) HC (10/32) 1.00% confidence of an increase [13]
(2) CO (7/35) 0.01% confidence of an increase
(3) NOx (13/34) 6.10% confidence of an increase [13]

3. Deteriorated Emissions Test

Listed below are the number of vehicles whose incremented 50,000 mile emission values exceeded emission standards.

a. 3% MTBE Fuel

(1) HC none out of 17
(2) CO none out of 17
(3) NO_x none out of 17

b. 7% MTBE Fuel

(1) HC 1 out of 35
(2) CO none out of 35
(3) NO_x

The results of tests 1 and 2 for the 3% MTBE containing fuel indicate that NO_x emissions decrease and there is no adverse effect on HC and CO emissions. The results for the 7% MTBE containing fuel indicate that NO_x and CO emissions decrease and HC emissions are not adversely affected.

The results of the third test indicate that the 3% MTBE fuel caused no vehicles to exceed emission standards when emissions deterioration for 50,000 miles was included in the analysis. The results for a 7% MTBE fuel show that one vehicle did not comply with emission standards when emissions deterioration for 50,000 miles was included in the analysis.

Because tests 1 and 2 for both the 3% and the 7% MTBE containing fuels show no adverse effect on emissions as a group and test 3 shows that no vehicles exceeded standards for the 3% MTBE fuel and only 1 out of 35 vehicles is caused to exceed standards for the 7% MTBE fuel (6 vehicle failures out of 35 vehicles would be required to fail this test), we conclude that MTBE from 0 to 7% volume percent does not cause or contribute to the failure of vehicles to meet exhaust emission standards.

[13] In accordance with standard procedures, all tied cases are dropped from the analysis and the sample size is correspondingly reduced. *See*, Siegel, S., *Nonparametric Statistics*, 1956.

B. EVAPORATIVE EMISSIONS

ARCO theorized that evaporative emissions are directly related to volatility characteristics and that fuels blended with MTBE have final volatility characteristics similar to present commercially available gasoline.[14]

ARCO performed a test program to confirm this theory. It tested six fuels with volatility properties within the ASTM unleaded gasoline specifications. The fuels, including two fuels blended with 7% MTBE, were chosen to provide a range of volatility. The test program demonstrated[15] that when the volatility properties of the gasoline containing MTBE are within the ASTM specifications, its evaporative emission performance is no worse than the evaporative emissions of the commercially available fuels of similar volatility. The volatility of commercially available gasoline varies over a substantial range.

It would be discriminatory to require an applicant's fuel or fuel additive to meet a more stringent volatility limit in order to control evaporative HC emissions than is characteristic of commercially available fuels. Thus, MTBE will not be considered to cause or contribute to the failure of emission control devices or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the evaporative emission standard if its volatility is within the ASTM specifications for automotive gasoline. If the volatility of gasoline were to eventually be regulated, then MTBE or any other fuel or fuel additive would have to comply with the regulatory requirements.

Consequently, unleaded fuel containing MTBE with volatility properties within ASTM gasoline specifications will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle on which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to Section 206 of the Act.

C. TECHNICAL ISSUES

1. Materials Compatibility

The issue of materials compatibility has been raised by several parties.[16]

[14] Fuel volatility is described by a combination of its partial pressure at 100°F (Reid vapor pressure) and its distillation properties (ASTM D-86).

[15] *See*, Analysis of Evaporative Data in the Characterization Report at 3. The analysis includes evaporative data submitted by Mobile Oil Corporation and General Motors.

[16] *See*, Transcript of Proceedings, "Hearing on Gasohol, MTBE, and Arconol Waiver Requests Pursuant to Section 211(f) of The Clean Air Act" (hereafter Transcript of Proceedings) at 69 (ARCO); 119 (FORD); and 189 (GM). *Also see*, MSED-211(f)-MTBE-3, Section 5 (Texaco), MSED 211(f)-MTBE-35, Attachment 3 and Attachment 6-Reference 4 (Shell).

Data submitted by ARCO and Suntech, Inc.[17] indicated that MTBE at concentrations of 10% and below does not pose a materials compatibility problem. Texaco reported that after four weeks of submersion of metallic and non-metallic fuel system parts in a 10% MTBE fuel, no incompatibility problems were found.[18] Texaco also reported that no discernable incompatibility of MTBE with non-metallic parts arose during their 20,000 miles mileage accumulation test on six vehicles.[19] Based on these data, the chemistry of MTBE, and our judgment, I have concluded that MTBE does not present a materials compatibility problem.

2. Driveability

The issue of driveability was raised by Ford and General Motors (GM).[20] Poor driveability caused by a fuel or fuel additive could impact emissions either through engine malfunction or misadjustment of engine components in an effort to improve driveability. Significant driveability problems solely attributable to a fuel or fuel additive should not occur if the fuels are manufactured to meet marketing standards. In fact, Ford stated that potential driveability problems could be "offset with blending adjustments."[21] I, therefore, conclude that driveability is not a significant problem with regard to emissions.

VI. FINDINGS AND CONCLUSIONS

I have determined that ARCO has established that MTBE, in a concentration range of 0 to 7 volume percent, and the emission products thereof will not cause or contribute to a failure of any emission control device or sytem (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Clean Air Act.

The Atlantic Richfield Company' request for a waiver of the section 211(f) prohibitions and limitations on the introduction into commerce of MTBE is hereby granted. This waiver allows the introduction into commerce of MTBE in unleaded gasoline in the concentration range of 0 to 7 volume percent

[17] *See*, MSED-211(f)-MTBE-6 at 35 and MSED-211(f)-MTBE-30 at section III.

[18] *See*, MSED-211-(f)-MTBE-5 at Section 5 and 6(c).

[19] *See, id.*

[20] *See*, Transcript of Proceedings at 117 (Ford) and 188 (GM).

[21] *See*, Transcript of Proceedings at 118.

provided the volatility of the resulting fuel meets ASTM unleaded gasoline specifications.

Dated: February 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

CHARACTERIZATION REPORT

ANALYSIS OF FUEL CONTAINING METHYL TERTIARY BUTYL ETHER (MTBE) TO CHARACTERIZE THE IMPACT OF 0% TO 7% CONCENTRATION OF MTBE ON EMISSIONS PERFORMANCE

February 1979

Technical Support Branch, Mobile Source Enforcement Division, Office of Mobile Source and Noise Enforcement, U.S. Environmental Protection Agency

Summary

This paper presents a summarization and analysis of the data presented in support of the request from the Atlantic Richfield Company for a waiver of the limitation and prohibition from use of methyl tertiary butyl ether (MTBE) in a 0-7% concentration in unleaded fuel. Included are a description of the sources of test data, the statistical analysis of the data, and a discussion of the conclusions drawn.

Sources of Data

EPA has received back-to-back FTP exhaust emissions data [22] on thirty-two oxidation catalyst vehicles (30 Federal, 2 California), and three California three-way catalyst vehicles tested at 0-7% MTBE concentration in gasoline from the following sources: Atlantic Richifield Company (ARCO), Texaco Incorporated, Shell Oil Company, General Motors, and the Mobil Oil Corporation. Additional test data for higher concentrations were received from the above sources and from the Ford Motor Company, and AMOCO Oil Company. A description of each vehicle tested in each program is contained in Table 1.

Atlantic Richfield, in support of its waiver request for the use of up to 7% MTBE has submitted back-to-back FTP data on sixteen 1976 or later model vehicles. Of these, thirteen vehicles (11 Federal, 2 California) were equipped with oxidation catalysts and three California vehicles were equipped with three-way catalysts. The base fuel for all but three of the Federal oxidation catalyst vehicles was unleaded ARCO fuel. The vehicles tested on this base fuel were also tested on a fuel blended with 7% MTBE having characteristics similar to the base fuel. Nine of these vehicles were also tested on a fuel blended with 3% MTBE having characteristics similar to the base fuel.

The remaining three 1978 Federal oxidation catalyst vehicles were tested for evaporative and tailpipe emissions on a low volatility fuel and a low volatility fuel blended with 7% MTBE, and a high volatility base fuel and a high volatility fuel blended with 7% MTBE.

Mobil Oil Corporation submitted exhaust and evaporative emissions data on one 1978 and one 1979 (Federal) oxidation catalyst vehicle. Each car was tested on an unleaded Mobil fuel and a fuel blended with 7% MTBE having characteristics similar to the base fuel.

Texaco has submitted data on eight 1978 and 1979 Federal oxidation catalyst vehicles comparing FTP emissions on an unleaded Texaco base fuel versus a fuel with concentrations of 3% MTBE and 7% MTBE having characteristics similar to the base fuel. In support of an earlier waiver application, Texaco submitted data on three 1977 and 1978 Federal oxidation catalyst vehicles comparing emissions on the unleaded base fuel and a fuel blended with 10% MTBE having similar characteristics to the base fuel.

Shell Oil Company submitted data on nine 1978 and 1979 Federal oxidation catalyst vehicles. The fuels were a Shell unleaded base and a fuel blended with 7% MTBE having similar characteristics to the base fuel. Shell also submitted results on four 1977 or later vehicles—three Federal vehicles equipped with oxidation catalysts and one California vehicle with a three-way catalyst—fuel with a Shell unleaded fuel and a fuel blended with 10% MTBE having similar characteristics to the base fuel.

General Motors has submitted data on four 1978 vehicles: two vehicles (1 Federal, 1 California) equipped with oxidation catalysts and two vehicles (1 California, 1 developmental) equipped with three-way catalysts. The base fuel was indolene. Test data were reported for MTBE concentrations of 5%, 10%, and 15% added to indolene on one vehicle and 15% for three other vehicles. Inaddition, evaporative results were provided on two vehicles.

AMOCO submitted data on two 1977 Federal vehicles equipped with oxidation catalysts. These vehicles were tested on unleaded AMOCO and a fuel blended with 10% MTBE having characteristics similar to the base fuel.

Ford Motor Company tested eight 1978 or later vehicles on indolene and indolene with 10% MTBE added. Four test vehicles (1 California, 3 developmental) were equipped with three-way catalysts. The four remaining vehicles (3 Federal, 1 California) were equipped with oxidation catalysts.

Analytic Procedures

This section reviews several procedures designed to examine the effects of MTBE [23] containing fuels compared to base fuels. They are:

(1) Paired difference test
(2) Sign of difference test
(3) Comparison of deteriorated emissions with standards

Each test was applied to data for a specific technology group and percent of MTBE contained in the fuel and data source. One technology group consists of oxidation catalyst vehicles designed to meet Federal standards of 1.5, 15, and 2.0 grams per mile for HC, CO and NOx [24], respectively (hereafter, Federal vehicles). The other technology group consists of oxidation catalyst vehicles and three-way catalyst vehicles designed to meet California standards of .41, 9.0 and 1.5 grams per mile for HC, CO and NOx, respectively, and some developmental vehicles designed to similar low emission levels (hereafter Future vehicles). Sample sizes, means, variances, standard deviations and a fuel code reference for each vehicle are listed in Appendix 1.

(1) *Paired difference test.* For each vehicle tested on a base fuel and an MTBE containing fuel (hereafter, MTBE fuel), the differences between the MTBE fuel emissions and the base fuel emissions were calculated. A 90% confidence interval was constructed for each of these differences.

This method of establishing 90% confidence intervals on the mean difference implicitly assumes emissions follow a normal distribution. While this requirement may not be exactly met, the method is robust enough to withstand some deviation from the normality assumption. This interval can be interpreted as: In approximately 90 experiments out of 100, one is confident that the interval so constructed would include the true value of the mean emission difference (i.e., MTBE fuel effect). If the resulting entire interval is below zero it is indicative of a decrease in emissions from MTBE; if the entire interval is above zero, it is indicative of an increase in emissions from MTBE.

If the interval contains zero, there is arguably no difference between the base fuel and MTBE fuel emission levels provided this interval is reasonably small. Since the length of the confidence interval can be large in the case of a small size, any interval containing zero must be sufficiently small that its upper limit does not exceed 10% of the applicable emission stand-

[22] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on the base fuel containing the additive.

[23] The one vehicle which was tested on 5% MTBE is not subject to those statistical tests because such tests cannot be performed on a single data point.

[24] Hydrocarbon, carbon monoxide and nitrogen oxides respectively.

ard to reasonably content that no increase in emissions has occurred.

In order to assure that intervals covering zero are small enough, sufficient samples must be taken. Since the interval length varies inversely with the sample size, an increase in sample size would decrease the interval length. If the interval length were sufficiently small, one of three possible results could occur:

(i) The entire interval would lie below zero;

(ii) The interval would include zero and the upper limit would be lower than 10% of the applicable emission standard; or

(iii) The entire interval would lie above zero. In general, the result is dependent on the location of the sample mean. Any of the three results would permit a definitive conclusion to be drawn. Hereafter, the situation in which a confidence interval includes zero, but has an upper limit above 10% of the applicable standard will be referred to as having "insufficient data to reach a definitive conclusion".

Therefore, this procedure considers an increase in emissions from MTBE fuel to exist when this confidence interval lies entirely above zero. A lack of an increase in emissions is said to exist if it contains zero while the upper limit does not exceed 10% of the applicable standard. A decrease in emissions is said to exist if the confidence interval is entirely below zero. For the purpose of this procedure, replicate tests on any one vehicle and fuel were averaged to provide a single data point in the analyses. Each vehicle carried an equal weight in the determination of the confidence interval.

The results of this procedure are shown in Table 2. The results for Federal vehicles are summarized below:

(a) All sources with 3% MTBE—HC and CO emissions did not increase; NOx emissions decreased.

(b) All sources with 7% MTBE—HC emissions did not increase; CO and NOx emissions decreased.

(c) All sources with 10% MTBE—HC and CO emissions decreased; NOx emissions did not increase.

(d) All sources with 15% MTBE—insufficient data to construct any interval.

For Future vehicles, the results are summarized by:

(a) All sources with 3% MTBE—HC, CO, and NOx did not increase.

(b) All sources with 7% MTBE—HC and CO emissions did not increase; insufficient data to reach a definitive conclusion for NOx emissions.

(c) All sources with 10% MTBE—insufficient data to reach a definitive conclusion for HC emissions; CO emissions decreased; NOx emissions did not increase.

(d) All sources with 15% MTBE—insufficient data to reach a definitive conclusion.

For a combination of technology groups (Federal and Future vehicles), the results are summarized by:

(a) All sources with 3% MTBE—HC and CO emissions did not increase; NOx emissions decreased.

(b) All sources with 7% MTBE—HC emissions did not increase; CO and NOx emissions decreased.

(c) All sources with 10% MTBE—HC and NOx emissions did not increase; CO emissions decreased.

(d) All sources with 15% MTBE—HC emissions did not increase, CO emissions decreased; insufficient data to reach a definitive conclusion for NOx emissions.

Thus, the Federal vehicles on 3% MTBE fuel show no increase in HC and CO emissions while NOx emissions decreased. Federal vehicles on 7% MTBE fuel show no increase in HC emissions while CO and NOx emissions decreased.

Future vehicles on 3% MTBE fuel show no increase in HC, CO and NOx emissions. On 7% MTBE, Future vehicles show HC and CO emissions did not increase while NOx emissions data was insufficient to draw a conclusion.

The combined Federal and Future vehicles on 3% MTBE show HC and CO emissions did not increase and NOx emissions decreased, and on 7% MTBE show HC emissions did not increase while CO and NOx emissions decreased.

(2) *Sign of difference tests.* For each vehicle tested with a base fuel and an MTBE fuel, the sign of the emission difference between MTBE fuel emissions and base fuel emissions was ascertained. The sign of these differences was considered. This nonparametric test was designed to determine whether the number of cars demonstrating an increase (+) in emissions with MTBE fuel significantly (at a 90% confidence level) exceeded those showing a decrease (−) in emissions with MTBE fuel.

In each test for each pollutant, the null hypothesis was that the median emission level for that pollutant was the same for both the base and the MTBE fuel. The alternative hypothesis for HC, CO, and NOx was that the median emissions level for MTBE fuel was higher than that of the base fuel.

The number of vehicles for which an increase in emissions was observed was calculated for each MTBE fuel concentration and technology group. If there were no real differences in emission levels attributable to MTBE fuel, the expected proportion of instances in which an increase between fuels would occur for any pollutant would be 0.5. Thus, a large proportion of observed increases in emission levels for a pollutant would indicate an increase in emissions from MTBE fuel. Similarly, a small proportion of increases in emission levels would indicate a positive effect of MTBE fuel.

Table 3 shows the results of this procedure. At concentrations of both 3% MTBE and 7% MTBE, HC, CO, and NOx emission levels did not indicate an increase in these pollutants for Federal vehicles, Future vehicles or the combination of both groups.

(3) *Comparision of deteriorated emissions with standards.* In order to determine whether MTBE fuel would cause the failure of any vehicle to meet emission standards during its useful life, a one-sided sign test to evaluate compliance using projected 50,000 mile emission levels was performed.[25] This statistical procedure assumes that the difference in emission levels between the base fuel and MTBE fuel for a particular vehicle either remains constant or becomes larger over the useful life of the vehicle.

Projected 50,000 mile emission levels for each nondevelopmental test vehicle (on which EPA had received sufficient vehicle identification information) were obtained by using average Federal Test Procedure (FTP) results and 50,000 mile certification data.

The test was designed such that the risk of failing would be at least 90% if 25% or more of the represented fleet failed to meet Federal emission standards for the particular MTBE fuel considered.[26]

The risk of failing this procedure is high for small sample sizes but de-

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[25] Projected 50,000 mile data were used rather than 50,000 mile durability testing on the judgment that the emissions effect of MTBE is manifest instantaneously. Texaco and ARCO provided some limited durability test data which generally supports this judgment.

Texaco performed a limited durability test program using six 1978 Chevrolet Chevelles and six different fuel combinations. Texaco ran these vehicles for 20,000 miles on a dynamometer Road Simulator Test (designed to simulate the average consumer driving environment). Texaco concluded that 10% MTBE versus three non-MTBE fuels did not reduce the catalytic activity of the catalytic converter. *See,* MSED 211(f)-MTBE-3. ARCO also performed a limited durability test on four vehicles. ARCO accumulated 4,000 miles and projected the emissions at 50,000 miles using the EPA certification deterioration factors. The mileage was accumulated using a fuel containing 5% MTBE. ARCO reported that the projected 50,000 mile emissions were below the applicable standards. However, ARCO used the deterioration factor (DF) for the test vehicles determined during certification. These DFs were determined on a mileage accumulation fuel not containing MTBE. The ARCO emission test data for zero and 4,000 miles indicated no significant difference between MTBE and base fuel. *See,* MSED-211(f)-MTBE-6.

[26] The power curves and table of critical values for this test are shown in Appendix 2.

creases when the sample size is increased. Under this procedure, the critical number (the smallest number of projected test failures for a given sample size which would constitute a failure of the criterion) for a sample size of 8 would be one. A sample of less than 8 would be insufficient to apply the procedure.

Thus, for samples of size 8, if one vehicle failed to meet emission standards with its projected 50,000 mile value, the review criterion was a failure.

This procedure was evaluated for each MTBE fuel and technology group. It was applied as follows: For each nondevelopmental vehicle for which EPA had received sufficient vehicle information, the 50,000 mile emissions levels were obtained from the certification test results for its configuration. The difference between average emissions levels for the MTBE fuel and base fuel were added to these levels to obtain projected 50,000 mile levels. These projected levels were then compared to emissions standards to which the vehicle was designed. A failure was recorded when a projected level exceeded the appropriate standard. Table 4 displays the results of this procedure.

This comparison resulted in one California oxidation catalyst vehicle failing HC at 7% MTBE concentration. In all other categories, there were no failing vehicles. For Federal vehicles there were sufficient sample sizes for both 3% MTBE and 7% MTBE concentrations and thus the review criterion was not failed. The number of Future vehicles for any concentration was not sufficient to apply this test.

Combining both Federal and Future vehicles and applying this procedure to the aggregated sample, only one vehicle tested at 7% MTBE failed HC and all other vehicles passed. Thus, the aggregate sample also satisfies the criterion.

Evaporative Emissions

Evaporative emission data on three vehicles tested on several fuels having a range of volatility meeting ASTM-D 439 were provided by ARCO. Two General Motors and two Mobil vehicles were also tested for evaporative emissions on fuels of different volatility meeting ASTM-D 439 requirements.

In theory, evaporative losses from the vehicles are directly related to fuel volatility.[27] This relationship has been demonstrated in testing.[28] Therefore, a linear regression of evaporative losses versus volatility for all fuels (including MTBE fuels) was performed to determine whether the MTBE fuel fits that theory. To the extent that correlation is shown for 7% MTBE fuels, it is expected that fuels containing 0-7% MTBE will have evaporative emission performance within the range of evaporative emission performance of commercially available fuels.

[27] Patterson, D. J., *Emissions From Combustion Engines and their Control*, 1972, pg. 60.

[28] Hurn, R. W., *Effect of Fuel Front-End and Mid-Range Volatility on Automobile Emissions*. RI7707.

Figure 1 plots the evaporative emission data and shows the results of this procedure. The relationship shown between evaporative losses and volatility is positive, and agrees with the technical theory.

Conclusions

From the sign of difference test analysis, there is virtually no confidence of an HC, CO, or NOx increase for either 3% MTBE or 7% MTBE.

The paired difference test shows, for 3% MTBE concentrations, that HC and CO emissions did not increase and NOx emissions decreased. In the case of 7% MTBE concentrations, HC emissions did not increase and CO and NOx emissions decreased. Thus, use of MTBE in concentrations of 3% and 7% appears to have no significant adverse effect on HC, CO and NOx emissions in both Federal and Future vehicles.

The third procedure, comparing deteriorated emissions with the standards, demonstrates that MTBE fuels cause one California oxidation catalyst vehicle in the test sample to exceed applicable emission standards. Further, the regression analysis performed to assess the evaporative emission performance comports with the theory that increasing volatility leads to increasing evaporative losses. The MTBE fuels had similar volatility characteristics and evaporative emissions as the other fuels meeting ASTM-D 439 tested in this program. In addition, vehicle evaporative emissions on both the base fuels and the MTBE fuels were below the evaporative emission standard.

[6560-01-C]

Table 1

Test Vehicle Description

Source	Model Year	Vehicle ID	Make/model	Cal./Fed. Configuration	Catalyst	MTBE Concentration
ARCO	1976	AIMP6	Chevrolet Impala	Federal	Oxidation	3,7
ARCO	1977	AVOLV	Volvo 244 DL	California	Three-way	3,7
ARCO	1977	AMUST	Ford Mustang II	California	Oxidation	3,7
ARCO	1977	APIN7	Ford Pinto	California	Oxidation	3,7
ARCO	1978	AIMP8	Chevrolet Impala	Federal	Oxidation	3,7
ARCO	1978	APIN8	Ford Pinto	California	Three-way	3,7
ARCO	1978	ASUNB	Pontiac Sunbird	California	Three-way	3,7
ARCO	1978	ABUIC	Buick Skylark	Federal	Oxidation	3,7
ARCO	1979	ACOUG	Mercury Cougar	Federal	Oxidation	3,7
Texaco	1978	TFAIR	Ford Fairmont	Federal	Oxidation	3,7
Texaco	1978	TZEP2	Mercury Zephyr	Federal	Oxidation	3,7
Texaco	1978	TIMPA	Chevrolet Impala	Federal	Oxidation	3,7
Texaco	1978	TTHUN	Ford Thunderbird	Federal	Oxidation	3,7
Texaco	1979	TZEP1	Mercury Zephyr	Federal	Oxidation	3,7
Texaco	1979	TCUTL	Oldsmobile Cutlass	Federal	Oxidation	3,7
Texaco	1979	TFIRE	Pontiac Firebird	Federal	Oxidation	3,7
Texaco	1978	TBUIC	Buick LeSabre	Federal	Oxidation	3,7
ARCO	1978	AMAL1	Chevrolet Malibu	Federal	Oxidation	7
ARCO	1978	AMAL2	Chevrolet Malibu	Federal	Oxidation	7
ARCO	1978	AFAIR	Ford Fairmont	Federal	Oxidation	7
ARCO	1978	ACUTL	Oldsmobile Cutlass	Federal	Oxidation	7
ARCO	1977	AMARQ	Mercury Marquis	Federal	Oxidation	7
ARCO	1978	ASKYL	Buick Skylark	Federal	Oxidation	7
ARCO	1979	AFUTU	Ford Futura	Federal	Oxidation	7
Shell	1979	H0001	Chevrolet Impala	Federal	Oxidation	7
Shell	1979	H0002	Chevrolet Impala	Federal	Oxidation	7
Shell	1978	H0003	Chevrolet Impala	Federal	Oxidation	7
Shell	1978	H0004	Pontiac Catalina	Federal	Oxidation	7
Shell	1979	H0005	Chevrolet Chevette	Federal	Oxidation	7
Shell	1978	H0006	Ford Fairmont	Federal	Oxidation	7
Shell	1978	H0007	Ford LTD II	Federal	Oxidation	7
Shell	1978	H0008	Dodge Aspen	Federal	Oxidation	7
Shell	1978	H0009	Dodge Diplomat	Federal	Oxidation	7
Mobil	1979	MFAIR	Ford Fairmont	Federal	Oxidation	7
Mobil	1978	MIMP8	Chevrolet Impala	Federal	Oxidation	7
GM	1978	GLEMA	Pontiac LeMans	California	Oxidation	5,10,15
Texaco	1977	T000F	Ford LTD II	Federal	Oxidation	10
Texaco	1978	T000G	Chevrolet Caprice	Federal	Oxidation	10
Texaco	1978	T000H	Chrysler LeBaron	Federal	Oxidation	10
Shell	1977	HNOVA	Chevrolet Nova	Federal	Oxidation	10
Shell	1978	HOLDS	Oldsmobile Delta 88	Federal	Oxidation	10
Shell	1978	HBUIC	Buick Skylark	Federal	Oxidation	10
Shell	1978	HPINT	Ford Pinto	California	Three-way	10
Ford	1978	F0002	Ford Bobcat	California	Three-way	10
Ford	1978	F0003	Ford Fairmont	Federal	Oxidation	10
Ford	1978	F0004	Ford Granada	California	Oxidation	10
Ford	1978	F0005	Ford Developmental	Developmental	Three-way	10
Ford	1978	F0006	Ford Developmental	Developmental	Three-way	10
Ford	1978	F0007	Ford Fairmont	Federal	Oxidation	10
Ford	1978	F0008	Ford Light Duty Truck	Federal	Oxidation	10
Ford	1979	F0009	Ford Thunderbird	Developmental	Three-way	10
AMOCO	1977	PSUNB	Pontiac Sunbird	Federal	Oxidation	10
AMOCO	1977	PGRAN	Ford Granada	Federal	Oxidation	10
GM	1978	GSUNB	Pontiac Sunbird	California	Three-way	15
GM	1978	GOLDS	Oldsmobile	Federal	Oxidation	15
GM	-	GOLDS	GM Developmental	Developmental	Three-way	15

Table 2

90% Confidence Interval for Mean Emission Differences

Federal Vehicles	Sample Size	HC (grams/mile)	CO (grams/mile)	NOx (grams/mile)
a) All Sources with 3% MTBE	12	(-0.11, 0.11) *	(-2.19, 0.40)	(-0.38,-0.16)
b) All Sources with 7% MTBE	30	(-0.12, 0.00)	(-3.12,-0.86)	(-0.16,-0.03)
c) All Sources with 10% MTBE	11	(-0.23,-0.02)	(-3.64,-0.48)	(-0.13, 0.10)
d) All Sources with 15% MTBE	1	— @	— @	— @
Future Vehicles				
a) All Sources with 3% MTBE	5	(-0.08, 0.02)	(-2.14, 0.79)	(-0.02, 0.08)
b) All Sources with 7% MTBE	5	(-0.05, 0.03)	(-2.12, 0.78)	(-0.03, 0.21)#
c) All Sources with 10% MTBE	7	(-0.07, 0.13)#	(-0.96,-0.03)	(0.00, 0.12)
d) All Sources with 15% MTBE.	3	(-0.16, 0.08)#	(-3.37, 0.99)#	(-0.16, 0.24)#
Combined Federal and Future Vehicles				
a) All Sources with 3% MTBE	17	(-0.09, 0.06)	(-1.77, 0.11)	(-0.28,-0.09)
b) All Sources with 7% MTBE	35	(-0.10, 0.00)	(-2.78,-0.83)	(-0.13,-0.01)
c) All Sources with 10% MTBE	18	(-0.14, 0.01)	(-2.43,-0.48)	(-0.05, 0.08)
d) All Sources with 15% MTBE	4	(-0.15, 0.03)	(-2.83,-0.07)	(-0.35, 0.21)#

* For each, the first number represents the lower bound of the 90% confidence interval and the second number represents the upper bound of the 90% confidence interval.

@ Insufficient data to construct an interval.

Insufficient data to reach a definitive conclusion.

Table 3

Sign Test Statistics and Confidence Levels for Comparison of Median Emission Levels Between Base Fuel and MTBE Concentrations

	HC	CO	NOx
Federal Vehicles			
a) All Sources with 3% MTBE Increases/Observations	3/12	4/12	1/12
Confidence Level for Increase (%)	1.93	7.30	0.02
b) All Sources with 7% MTBE Increases/Observations	9/28	5/30	10/30
Confidence Level for Increase (%)	1.8	0.0	2.14
a) All Sources with 10% MTBE Increases/Observations	0/11	2/11	4/11
Confidence Level for Increase (%)	0.0	0.59	11.33
b) All Sources with 15% MTBE Increases/Observations	0/1	0/1	0/1
Confidence Level for Increase (%)	-*	-*	-*
Future Vehicles			
a) All Sources with 3% MTBE Increases/Observations	2/4	2/5	3/5
Confidence Level for Increase (%)	31.25	18.75	50.00
b) All Sources with 7% MTBE Increases/Observations	1/4	2/5	3/4
Confidence Level for Increase (%)	6.25	18.75	68.75
c) All Sources with 10% MTBE Increases/Observations	2/6	2/7	5/7
Confidence Level for Increase (%)	10.94	6.25	77.34
d) All Sources with 15% MTBE Increases/Observations	1/3	1/3	2/3
Confidence Level for Increase (%)	12.5	12.5	50.0
Combined Federal and Future Vehicles			
a) All Sources with 3% MTBE Increases/Observations	5/16	6/17	4/17
Confidence Level for Increase (%)	3.84	7.17	0.64
b) All Sources with 7% MTBE Increases/Observations	10/32	7/35	13/34
Confidence Level for Increase (%)	1.00	0.01	6.1
c) All Sources with 10% MTBE Increases/Observations	2/17	4/18	9/18
Confidence Level for Increase (%)	0.01	0.38	40.73
d) All Sources with 15% MTBE Increases/Observations	1/4	1/4	2/4
Confidence Level for Increase (%)	6.25	6.25	31.25

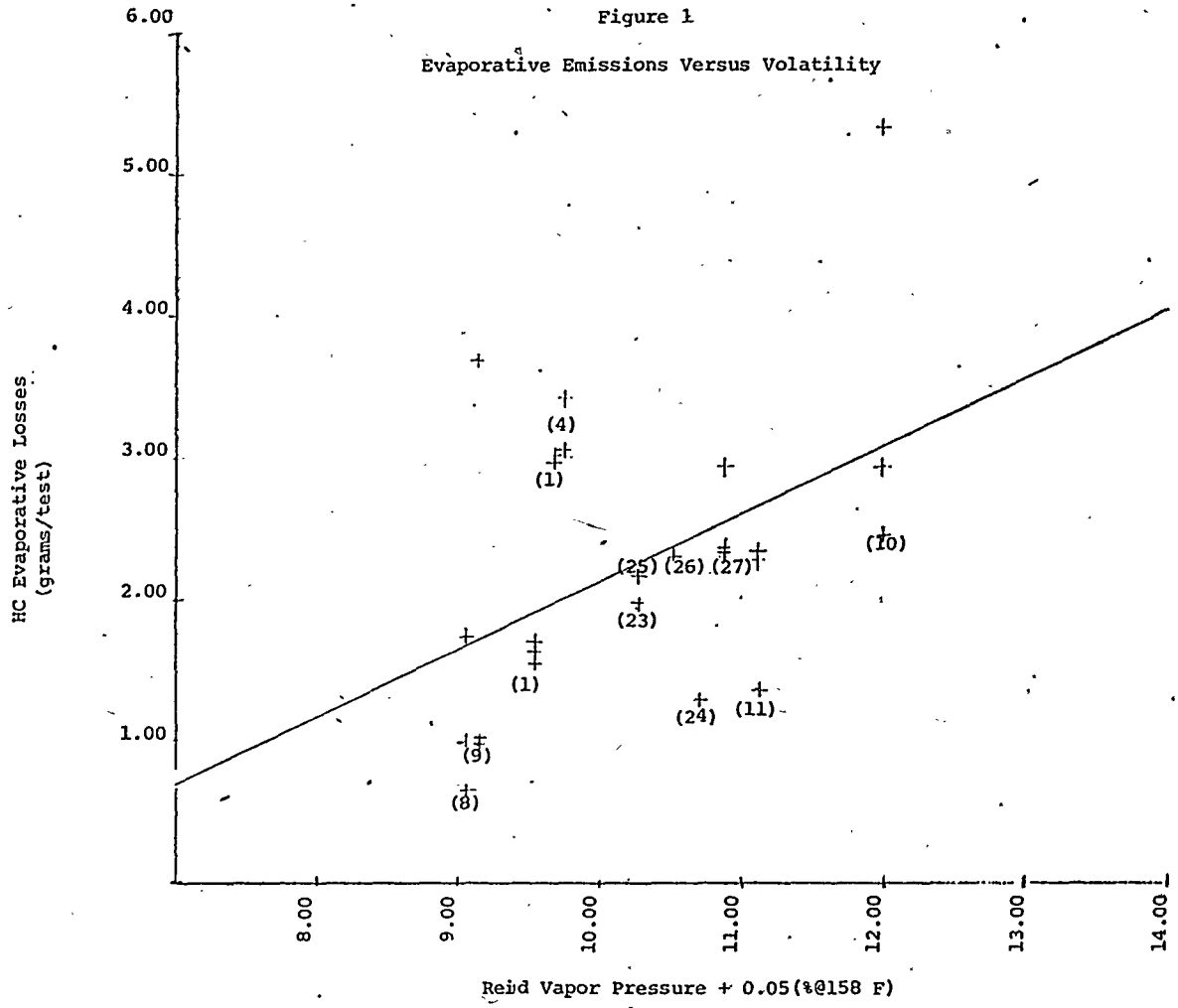
* Confidence levels cannot be calculated from a single point.

Table 4
Comparison of Deteriorated Emissions with Standards
(# failures/total #)

	HC	CO	NOx
Federal Vehicles			
3% MTBE	0/12	0/12	0/12
7% MTBE	0/30	0/30	0/30
10% MTBE	0/7	0/7	0/7
15% MTBE	0/0	0/0	0/0
Future Vehicles			
3% MTBE	0/5	0/5	0/5
7% MTBE	1/5	0/5	0/5
10% MTBE	0/4	0/4	0/4
15% MTBE	0/2	0/2	0/2
Combined Technology Groups			
3% MTBE	0/17	0/17	0/17
7% MTBE	1/35	0/35	0/35
10% MTBE	0/11	0/11	0/11
15% MTBE	0/2	0/2	0/2

Figure 1

Evaporative Emissions Versus Volatility



Appendix 1

Average Emissions by Vehicle by Fuel.

SOURCE	VEH	FUEL	N OBS	HC			CO			NOX			EVAP	
				MEAN	VAR	STDEV	MEAN	VAR	STDEV	MEAN	VAR	STDEV	MEAN	VAR	STDEV
A	PINB	5	4	0.31	0.000	0.02	6.02	0.316	0.56	1.30	0.029	0.17	0.0	0.0	0.0
A	PINB	6	2	0.25	0.002	0.04	3.68	0.956	0.98	1.28	0.028	0.17	0.0	0.0	0.0
A	PINB	7	2	0.28	0.000	0.01	6.43	0.609	0.78	1.58	0.093	0.31	0.0	0.0	0.0
A	SUNB	5	4	0.38	0.000	0.02	8.71	1.276	1.13	0.98	0.008	0.09	0.0	0.0	0.0
A	SUNB	6	2	0.39	0.001	0.03	6.53	2.668	1.63	0.93	0.002	0.05	0.0	0.0	0.0
A	SUNB	7	2	0.35	0.000	0.02	5.42	2.186	1.48	0.99	0.003	0.06	0.0	0.0	0.0
A	VOLV	5	1	0.28	0.0	0.0	4.13	0.0	0.0	0.02	0.0	0.0	0.0	0.0	0.0
A	VOLV	6	2	0.25	0.001	0.03	5.35	0.000	0.02	0.03	0.000	0.01	0.0	0.0	0.0
A	VOLV	7	1	0.24	0.0	0.0	4.03	0.0	0.0	0.02	0.0	0.0	0.0	0.0	0.0
G	SUNB	1	1	0.44	0.0	0.0	5.65	0.0	0.0	0.67	0.0	0.0	0.0	0.0	0.0
G	SUNB	4	1	0.32	0.0	0.0	3.33	0.0	0.0	0.59	0.0	0.0	0.0	0.0	0.0
H	PINT	19	1	0.21	0.0	0.0	4.10	0.0	0.0	1.20	0.0	0.0	0.0	0.0	0.0
H	PINT	20	1	0.19	0.0	0.0	3.76	0.0	0.0	1.15	0.0	0.0	0.0	0.0	0.0
F	0002	1	4	0.29	0.002	0.04	2.47	0.268	0.52	0.92	0.001	0.03	0.0	0.0	0.0
F	0002	3	2	0.30	0.004	0.06	2.62	1.960	1.40	0.97	0.001	0.04	0.0	0.0	0.0
F	0005	1	5	0.25	0.004	0.06	3.57	0.278	0.53	0.98	0.015	0.12	0.0	0.0	0.0
F	0005	3	2	0.15	0.000	0.02	2.19	0.744	0.86	1.03	0.001	0.04	0.0	0.0	0.0
F	0006	1	4	0.26	0.009	0.09	0.68	0.012	0.11	0.59	0.001	0.04	0.0	0.0	0.0
F	0006	3	2	0.59	0.010	0.10	1.08	0.186	0.43	0.67	0.000	0.02	0.0	0.0	0.0
F	0009	1	4	0.24	0.002	0.04	1.52	0.091	0.30	1.05	0.004	0.06	2.87	0.0	0.0
F	0009	3	2	0.21	0.0	0.0	0.89	0.024	0.16	1.13	0.002	0.05	3.56	0.0	0.0
G	DEVL	1	3	0.26	0.001	0.03	2.65	0.001	0.03	0.82	0.001	0.03	0.0	0.0	0.0
G	DEVL	4	2	0.28	0.000	0.01	2.87	0.000	0.01	0.85	0.000	0.02	0.0	0.0	0.0
A	IMPB	5	4	0.62	0.006	0.08	12.27	5.038	2.24	2.81	0.111	0.33	0.0	0.0	0.0
A	IMPB	6	2	0.50	0.002	0.05	8.67	0.192	0.44	2.30	0.112	0.33	0.0	0.0	0.0
A	IMPB	7	2	0.53	0.000	0.02	9.40	1.675	1.29	3.12	0.005	0.07	0.0	0.0	0.0
A	BUIC	5	4	0.77	0.010	0.10	13.89	33.994	5.83	2.48	0.087	0.30	0.0	0.0	0.0
A	BUIC	6	4	0.63	0.025	0.16	9.75	1.763	1.33	1.82	0.192	0.44	0.0	0.0	0.0

A	BUIC	7	3	0.64	0.005	0.07	13.72	12.467	3.53	2.49	0.168	0.41	0.0	0.0	0.0
A	MUST	5	2	0.38	0.012	0.11	2.52	0.256	0.51	1.39	0.098	0.09	0.0	0.0	0.0
A	MUST	6	2	0.26	0.004	0.06	2.63	1.448	1.20	1.40	0.024	0.16	0.0	0.0	0.0
A	MUST	7	2	0.33	0.014	0.12	1.86	0.295	0.54	1.27	0.020	0.14	0.0	0.0	0.0
A	PIN7	5	3	0.48	0.012	0.11	2.20	1.049	1.02	0.72	0.032	0.18	0.0	0.0	0.0
A	PIN7	6	2	0.48	0.001	0.03	2.00	0.035	0.19	0.78	0.001	0.03	0.0	0.0	0.0
A	PIN7	7	3	0.54	0.017	0.13	2.47	0.592	0.77	0.84	0.003	0.06	0.0	0.0	0.0
A	IMP6	5	1	0.56	0.0	0.0	11.61	0.0	0.0	1.47	0.0	0.0	0.0	0.0	0.0
A	IMP6	6	2	0.45	0.003	0.05	13.57	9.470	3.08	1.05	0.003	0.06	0.0	0.0	0.0
A	IMP6	7	2	0.45	0.010	0.10	10.29	8.214	2.87	1.46	0.000	0.01	0.0	0.0	0.0
G	LEMA	1	4	0.35	0.000	0.01	6.27	0.245	0.49	1.10	0.003	0.05	0.0	0.0	0.0
G	LEMA	2	4	0.36	0.000	0.01	6.07	0.064	0.25	1.20	0.002	0.04	0.0	0.0	0.0
G	LEMA	3	4	0.35	0.000	0.01	5.17	0.146	0.38	1.30	0.008	0.09	0.0	0.0	0.0
G	LEMA	4	4	0.33	0.000	0.01	4.80	0.038	0.18	1.26	0.019	0.14	0.0	0.0	0.0
T	000F	15	1	0.31	0.0	0.0	1.40	0.0	0.0	1.40	0.0	0.0	0.0	0.0	0.0
T	000F	16	1	0.29	0.0	0.0	1.00	0.0	0.0	1.20	0.0	0.0	0.0	0.0	0.0
T	000G	15	1	0.67	0.0	0.0	8.90	0.0	0.0	1.40	0.0	0.0	0.0	0.0	0.0
T	000G	16	1	0.66	0.0	0.0	8.60	0.0	0.0	1.70	0.0	0.0	0.0	0.0	0.0
T	000H	15	1	1.30	0.0	0.0	21.40	0.0	0.0	2.00	0.0	0.0	0.0	0.0	0.0
T	000H	16	1	0.63	0.0	0.0	12.00	0.0	0.0	1.90	0.0	0.0	0.0	0.0	0.0
H	OLDS	19	1	1.05	0.0	0.0	5.33	0.0	0.0	1.99	0.0	0.0	0.0	0.0	0.0
H	OLDS	20	1	0.91	0.0	0.0	5.34	0.0	0.0	1.69	0.0	0.0	0.0	0.0	0.0
H	BUIC	19	1	0.85	0.0	0.0	7.60	0.0	0.0	2.16	0.0	0.0	0.0	0.0	0.0
H	BUIC	20	1	0.75	0.0	0.0	6.29	0.0	0.0	2.00	0.0	0.0	0.0	0.0	0.0
H	NOVA	19	1	0.80	0.0	0.0	4.84	0.0	0.0	1.63	0.0	0.0	0.0	0.0	0.0
H	NOVA	20	1	0.66	0.0	0.0	3.28	0.0	0.0	1.50	0.0	0.0	0.0	0.0	0.0
F	0003	1	4	0.81	0.085	0.29	3.68	1.962	1.40	1.69	0.132	0.36	0.0	0.0	0.0
F	0003	3	2	0.77	0.051	0.23	2.62	0.036	0.19	1.89	0.003	0.06	0.0	0.0	0.0
F	0004	1	5	0.36	0.002	0.04	2.72	0.212	0.46	1.19	0.006	0.07	0.0	0.0	0.0
F	0004	3	2	0.34	0.000	0.01	2.14	0.022	0.15	1.17	0.001	0.04	0.0	0.0	0.0
F	0007	1	3	0.64	0.012	0.11	4.96	3.968	1.99	1.40	0.000	0.02	0.0	0.0	0.0

F	0007	3	2	0.61	0.000	0.01	4.02	1.496	1.22	1.49	0.002	0.05	0.0	0.0	0.0
F	0008	1	3	0.81	0.018	0.14	9.04	7.421	2.72	2.29	0.073	0.27	0.0	0.0	0.0
F	0008	3	2	0.64	0.000	0.02	5.12	0.872	0.27	2.26	0.002	0.04	0.0	0.0	0.0
G	OLDS	1	6	0.64	0.013	0.12	8.52	1.379	1.17	1.79	0.026	0.16	2.96	0.130	0.36
G	OLDS	4	2	0.52	0.001	0.03	6.30	0.361	0.60	1.40	0.007	0.08	3.41	0.065	0.25
A	MAL1	8	2	0.59	0.010	0.10	7.73	2.977	1.73	1.68	0.106	0.33	0.66	0.011	0.11
A	MAL1	9	2	0.63	0.014	0.12	6.78	4.621	2.15	1.34	0.002	0.05	0.99	0.007	0.08
A	MAL1	10	3	0.45	0.008	0.09	7.99	1.692	1.30	1.18	0.218	0.47	2.42	0.981	0.99
A	MAL1	11	1	0.55	0.0	0.0	8.28	0.0	0.0	1.41	0.0	0.0	1.35	0.006	0.08
A	FAIR	8	2	0.75	0.003	0.06	12.70	0.051	0.23	0.92	0.005	0.07	1.77	0.078	0.28
A	FAIR	9	2	0.80	0.007	0.08	9.30	0.231	0.48	1.12	0.000	0.02	2.26	0.980	0.99
A	FAIR	10	3	1.86	0.029	0.17	21.42	56.098	7.52	1.02	0.017	0.13	5.32	0.987	0.99
A	FAIR	11	2	0.78	0.002	0.04	13.56	1.675	1.29	0.98	0.000	0.02	3.69	0.051	0.23
A	MAL2	8	1	1.38	0.0	0.0	26.06	15.345	3.92	1.17	0.014	0.12	0.99	0.004	0.86
A	MAL2	9	2	1.26	0.080	0.28	16.42	14.151	3.76	0.96	0.000	0.01	1.01	0.039	0.20
A	MAL2	10	2	1.30	0.011	0.11	34.30	64.412	8.03	0.93	0.002	0.04	2.94	0.002	0.04
A	MAL2	11	2	1.07	0.016	0.13	27.11	5.056	2.25	0.99	0.004	0.06	2.34	0.001	0.03
A	COUG	5	1	0.79	0.0	0.0	13.68	0.0	0.0	1.59	0.0	0.0	0.0	0.0	0.0
A	COUG	6	1	0.71	0.0	0.0	8.07	0.0	0.0	1.61	0.0	0.0	0.0	0.0	0.0
A	COUG	7	1	0.57	0.0	0.0	5.54	0.0	0.0	1.67	0.0	0.0	0.0	0.0	0.0
A	CUTL	5	1	0.57	0.0	0.0	7.84	0.0	0.0	1.56	0.0	0.0	0.0	0.0	0.0
A	CUTL	7	2	0.51	0.003	0.05	7.93	3.466	1.86	1.83	0.177	0.42	0.0	0.0	0.0
A	HARO	5	1	2.86	0.0	0.0	27.54	0.0	0.0	0.93	0.0	0.0	0.0	0.0	0.0
A	HARO	7	1	2.13	0.0	0.0	10.93	0.0	0.0	1.15	0.0	0.0	0.0	0.0	0.0
A	SKYL	5	1	0.65	0.0	0.0	10.97	0.0	0.0	1.95	0.0	0.0	0.0	0.0	0.0
A	SKYL	7	1	0.43	0.0	0.0	7.19	0.0	0.0	1.75	0.0	0.0	0.0	0.0	0.0
A	FUTU	5	1	0.39	0.0	0.0	15.46	0.0	0.0	1.10	0.0	0.0	0.0	0.0	0.0
A	FUTU	7	1	0.65	0.0	0.0	11.92	0.0	0.0	1.08	0.0	0.0	0.0	0.0	0.0
T	FAIR	12	1	0.57	0.0	0.0	3.11	0.0	0.0	1.81	0.0	0.0	0.0	0.0	0.0
T	FAIR	14	1	0.52	0.0	0.0	2.85	0.0	0.0	1.65	0.0	0.0	0.0	0.0	0.0
T	FAIR	13	1	0.99	0.0	0.0	4.20	0.0	0.0	1.68	0.0	0.0	0.0	0.0	0.0

T	ZEP2	12	1	0.73	0.0	0.0	5.00	0.0	0.0	1.27	0.0	0.0	0.0	0.0	0.0
T	ZEP2	14	1	0.73	0.0	0.0	5.99	0.0	0.0	1.31	0.0	0.0	0.0	0.0	0.0
T	ZEP2	13	1	0.62	0.0	0.0	4.82	0.0	0.0	1.23	0.0	0.0	0.0	0.0	0.0
T	IMPA	12	1	0.50	0.0	0.0	4.93	0.0	0.0	1.26	0.0	0.0	0.0	0.0	0.0
T	IMPA	14	1	0.45	0.0	0.0	4.48	0.0	0.0	1.33	0.0	0.0	0.0	0.0	0.0
T	IMPA	13	1	0.46	0.0	0.0	7.32	0.0	0.0	1.22	0.0	0.0	0.0	0.0	0.0
T	THUN	12	1	0.49	0.0	0.0	4.58	0.0	0.0	2.21	0.0	0.0	0.0	0.0	0.0
T	THUN	14	1	0.43	0.0	0.0	3.70	0.0	0.0	2.02	0.0	0.0	0.0	0.0	0.0
T	THUN	13	1	0.66	0.0	0.0	5.12	0.0	0.0	2.03	0.0	0.0	0.0	0.0	0.0
T	ZEP1	12	1	0.44	0.0	0.0	5.36	0.0	0.0	1.50	0.0	0.0	0.0	0.0	0.0
T	ZEP1	14	1	0.41	0.0	0.0	4.72	0.0	0.0	1.10	0.0	0.0	0.0	0.0	0.0
T	ZEP1	13	1	0.40	0.0	0.0	5.33	0.0	0.0	1.09	0.0	0.0	0.0	0.0	0.0
T	CUTL	12	1	0.81	0.0	0.0	4.00	0.0	0.0	2.21	0.0	0.0	0.0	0.0	0.0
T	CUTL	14	1	0.43	0.0	0.0	1.77	0.0	0.0	1.72	0.0	0.0	0.0	0.0	0.0
T	CUTL	13	1	0.51	0.0	0.0	3.42	0.0	0.0	1.83	0.0	0.0	0.0	0.0	0.0
T	FIRE	12	1	0.78	0.0	0.0	8.53	0.0	0.0	2.19	0.0	0.0	0.0	0.0	0.0
T	FIRE	14	1	0.90	0.0	0.0	6.71	0.0	0.0	1.91	0.0	0.0	0.0	0.0	0.0
T	FIRE	13	1	0.77	0.0	0.0	6.29	0.0	0.0	1.99	0.0	0.0	0.0	0.0	0.0
T	BUIC	12	1	0.49	0.0	0.0	5.29	0.0	0.0	3.01	0.0	0.0	0.0	0.0	0.0
T	BUIC	14	1	0.67	0.0	0.0	5.82	0.0	0.0	2.68	0.0	0.0	0.0	0.0	0.0
T	BUIC	13	1	0.58	0.0	0.0	4.96	0.0	0.0	2.68	0.0	0.0	0.0	0.0	0.0
H	0001	17	2	0.45	0.0	0.0	3.99	0.405	0.64	2.09	0.000	0.01	0.0	0.0	0.0
H	0001	18	2	0.45	0.000	0.01	3.17	0.320	0.57	1.83	0.002	0.04	0.0	0.0	0.0
H	0002	17	2	0.52	0.007	0.08	4.06	2.205	1.48	1.95	0.000	0.01	0.0	0.0	0.0
H	0002	18	2	0.63	0.031	0.18	5.40	3.125	1.77	1.79	0.005	0.07	0.0	0.0	0.0
H	0003	17	2	0.84	0.045	0.21	7.93	2.028	1.42	1.87	0.014	0.12	0.0	0.0	0.0
H	0003	18	2	0.87	0.011	0.11	7.85	2.599	1.61	1.82	0.004	0.06	0.0	0.0	0.0
H	0004	17	2	0.86	0.002	0.05	5.81	0.029	0.17	1.98	0.180	0.42	0.0	0.0	0.0
H	0004	18	2	0.62	0.000	0.01	4.42	0.162	0.40	1.75	0.000	0.01	0.0	0.0	0.0
H	0005	17	2	0.62	0.000	0.02	9.81	0.020	0.14	0.94	0.000	0.01	0.0	0.0	0.0
H	0005	18	2	0.56	0.002	0.04	8.15	0.594	0.77	0.99	0.000	0.01	0.0	0.0	0.0

H	0006	17	2	0.70	0.007	0.08	4.33	0.336	0.58	1.65	0.007	0.08	0.0	0.0	0.0
H	0006	18	2	0.77	0.0	0.0	4.20	0.039	0.20	1.33	0.092	0.30	0.0	0.0	0.0
H	0007	17	2	0.93	0.003	0.06	6.54	0.281	0.53	2.35	0.002	0.05	0.0	0.0	0.0
H	0007	18	2	1.03	0.006	0.08	6.57	0.001	0.04	2.24	0.006	0.08	0.0	0.0	0.0
H	0008	17	2	0.67	0.029	0.17	7.12	0.180	0.42	2.27	0.022	0.15	0.0	0.0	0.0
H	0008	18	2	0.68	0.001	0.03	6.39	0.051	0.23	2.01	0.000	0.01	0.0	0.0	0.0
H	0009	17	2	0.81	0.005	0.07	6.25	0.042	0.21	3.09	0.000	0.02	0.0	0.0	0.0
H	0009	18	2	0.80	0.011	0.11	6.07	0.367	0.62	3.09	0.168	0.41	0.0	0.0	0.0
P	SUNB	21	4	0.59	0.005	0.07	3.17	2.336	1.53	1.90	0.133	0.37	0.0	0.0	0.0
P	SUNB	22	4	0.55	0.002	0.04	2.27	0.969	0.98	2.17	0.775	0.88	0.0	0.0	0.0
P	GRAN	21	2	0.56	0.001	0.04	3.60	2.880	1.70	2.50	0.231	0.48	0.0	0.0	0.0
P	GRAN	22	3	0.54	0.000	0.02	4.67	1.003	1.00	2.39	0.272	0.52	0.0	0.0	0.0
M	FAIR	23	2	0.84	0.014	0.12	6.13	0.088	0.30	1.75	0.002	0.05	0.0	0.0	0.0
M	FAIR	24	2	0.83	0.002	0.04	6.02	0.005	0.07	1.82	0.002	0.04	0.0	0.0	0.0
M	IMPB	25	4	1.17	0.028	0.14	14.42	2.825	1.66	1.61	0.004	0.07	0.0	0.0	0.0
M	IMPB	26	2	1.16	0.003	0.06	13.01	2.928	1.71	1.41	0.003	0.06	0.0	0.0	0.0

FUEL CODES FOR AVERAGE EMISSIONS DATA

LEGEND

FUEL CODE	FUEL DESCRIPTION
1	INDOLENE
2	INDOLENE + 5% MTBE
3	INDOLENE + 10% MTBE
4	INDOLENE + 15% MTBE
5	ARCO UNLEADED BASE
6	ARCO UL + 3% MTBE
7	ARCO UL + 7% MTBE
8	ARCO LOW VOLATILITY
9	ARCO LV + 7% MTBE
10	ARCO HIGH VOLATILITY
11	ARCO HV + 7% MTBE
12	TEXACO (3,7) BASE
13	TEXACO (3,7) + 3% MTBE
14	TEXACO (3,7) + 7% MTBE
15	TEXACO (10) BASE
16	TEXACO (10) + 10% MTBE
17	SHELL B BASE
18	SHELL B + 7% MTBE
19	SHELL A BASE
20	SHELL A + 10% MTBE
21	AMOCO UNLEADED
22	AMOCO + 10% MTBE
23	MOBIL A BASE
24	MOBIL A + 7% MTBE
25	MOBIL B BASE
26	MOBIL B + 7% MTBE
27	ARCO MEDIUM RANGE VOLATILITY

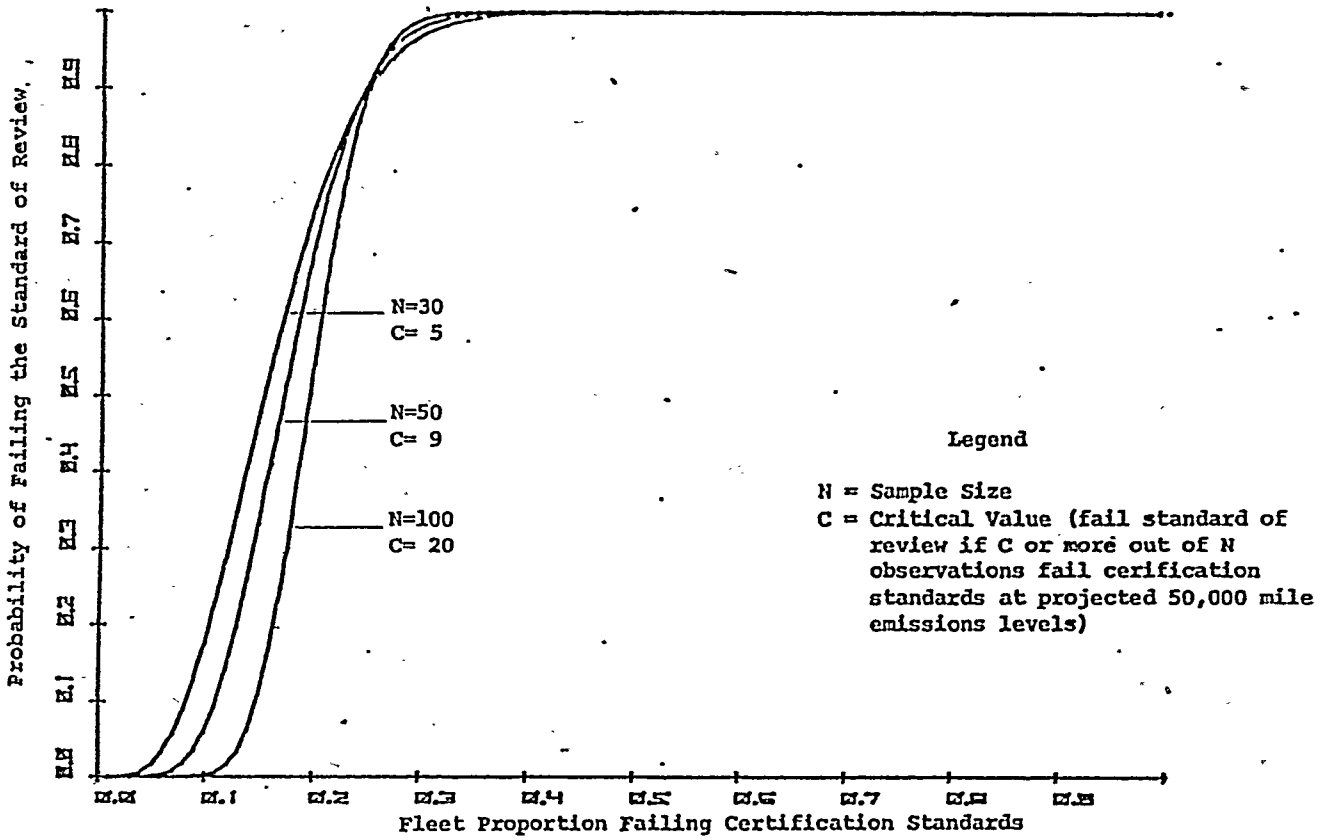
Appendix 2

Power of Binomial Test*
with p=.25

Sample Size	Critical Value	Power
8	1	.900
9	1	.925
10	1	.944
11	1	.958
12	1	.968
13	1	.976
14	2	.899
15	2	.920
16	2	.937
17	2	.950
18	2	.961
19	3	.889
20	3	.909
21	3	.925
22	3	.939
23	3	.951
24	4	.885
25	4	.904
26	4	.920
27	4	.933
28	4	.945
29	5	.885
30	5	.902
31	5	.917
32	5	.930
33	5	.941
34	6	.886
35	6	.902
40	7	.904
45	8	.906
50	9	.908
60	11	.914
70	13	.920
80	15	.926
90	18	.890
100	20	.900

* For purposes of analysis, this test was designed such that the risk of being denied a waiver would be at least 90% if 25% or more of the represented fleet fails to meet emission standards. This approach is related to the approach applied to the vehicle manufacturers under the vehicle assembly line selective enforcement audit procedures. While a more conservative 20% noncompliance rate has been used in some past characterization analyses, 25% is more consistent with the selective enforcement audit procedures.

Appendix 2



Probability of Failing the Standard of Review for Different Sample Sizes and Critical Values versus the True Proportion in the Fleet Failing Certification Standards

[FR Doc. 79-6101 Filed 3-5-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 79-26, 79-27; File Nos. BPH-10,009, 10-351]

SUPERIOR BROADCASTING CO., INC. AND TOWN AND COUNTRY BROADCASTING COMPANY OF TUPELO, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: February 14, 1979.

Released: March 1, 1979.

In re applications of Superior Broadcasting Co., Inc., Baldwyn, Mississippi, BC Docket No. 79-26, File No. BPH-10,009, Requests: 95.9 MHz, Channel 240; 3kW (H&V); 300 ft., Town and Country Broadcasting Company of Tupelo, Inc., Baldwyn, Mississippi, BC Docket No. 79-27, File No. BPH-10,351, Requests: 95.9 MHz, Channel 240; 3kW (H&V); 300 ft., for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications which are mutually exclusive in that they seek the same facilities in Baldwyn, Mississippi.

2. In an amendment to its application, Superior Broadcasting Co., Inc. (Superior) submitted a revised Section II, Page 5, paragraph 18 of FCC Form 301, stating "See next page of exhibit for further interests in detail." However, no additional page was included setting forth further interests of Superior's principals in broadcast stations, applications or other media. Accordingly, an issue is required to ascertain any additional interests and the effect thereof, if any, on the applicant's basic and/or comparative qualifications.

3. Superior will require $39,246 to construct and operate its proposed station for three months, without reliance on revenues, itemized as follows:

Equipment (cash purchase)	$7,300
Down payment on equipment	4,250
Payments on equipment with interest	2,196
Installation and Transmitter Building	2,500
Legal	10,000
Miscellaneous	500
Working capital (90 days)	12,500
Total	39,246

To meet this requirement, applicant relies on cash on hand of $10,000 and a loan from a banking institution of $75,000. Although Superior's balance sheet shows current assets of $22,888, including liquid assets of $8,488, these are offset by current liabilities in the sum of $14,457, leaving only $8,431 available. Moreover, the loan commitment letter from the First National Bank of Clarksdale, has expired by its terms, and Mr. J. Boyd Ingram has failed to provide evidence of his willingness to assign his stock in the applicant (which is licensee of Station WJBI, Clarksdale, Mississippi), grant a lien on the assets of the proposed station, or personally endorse the loan, as required by the loan commitment letter. Finally, the equipment credit letter fails, to indicate that a preliminary credit check has been made. Accordingly, a limited financial issue will be required.

4. Town and Country Broadcasting Company of Tupelo, Inc. (Town and Country) will require $40,603 to construct and operate its proposed station for three months, without reliance on revenues, itemized as follows:

Equipment	$26,478
Buildings	1,200
Engineering	1,800
Legal	500
Miscellaneous	500[1]
Working capital (90 days)	10,125
Total	40,603

[1] In its application as amended, Town and Country states that no legal fees incident to a hearing are included because the applicant will proceed *pro se*.

To meet this requirement, applicant relies on cash on hand of $4,000 and a loan from a banking institution of $75,000. Although Town and Country's balance sheet shows current assets of $13,357, including liquid assets of $7,684, these are offset by current liabilities in the sum of $5,000, leaving only $8,357 available. Moreover, the loan commitment letter from the Peoples Bank of Ripley specifies that all the stock in Station WJLJ, Tupelo, Mississippi, will be required as collateral for the loan. However, Commission records show that Town and Country assigned the license of Station WJLJ to Northeast Radio, Inc. on February 25, 1978, pursuant to Commission authorization (File No. BAL-9226). Accordingly, a limited financial issue will be required.

5. Town and Country has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to survey leaders from a significant group comprising a part of the Baldwyn community. *Voice of Dixie, Inc.*, 45 FCC 2d 1022, 24 RR 2d 1127 (1974), *recon. den.*, 47 FCC 2d 526, 30 RR 2d 851 (1974). Specifically, Town and Country indicates in exhibit 5 of its application that representatives of labor were consulted, but our review of the application reveals no one who can be considered as a leader of this significant community element. For this reason, a limited ascertainment issue will be specified.

6. Data submitted by the applicants indicates that there will be a significant difference in the size of the areas and populations which would receive service from the proposals.[2] Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary and aural services in such areas, will be considered under the standard comparative issue to determine whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Superior Broadcasting Co., Inc., the other media interests of Mr. J. Boyd Ingram and Mr. O. T. Robinson, and the effect thereof, if any, on the applicant's basic and/or comparative qualifications.

2. To determine with respect to Superior: (a) The source and availability of additional funds over and above the $8,431 indicated, and (b) in light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified.

3. To determine with respect to Town and Country Broadcasting Company of Tupelo, Inc.: (a) The source and availability of additional funds over and above the $8,357 indicated, and (b) in light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified.

4. To determine whether Town and Country interviewed leaders of labor in connection with its ascertainment effort.

5. To determine which of the proposals would on a comparative basis better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

9. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant

[2] Superior's application states that 35,792 persons within an area of 637 square miles would be encompassed within its 1.0 mV/m primary service contour, whereas Town and Country indicates its proposed station would provide primary service to 52,072 persons within an area of 668 square miles.

to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-6600 Filed 3-5-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by March 16, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. T-3759-1.

Filing party: Lynne R. Feldman, Assistant City Attorney, Office of the City Attorney, City of Richmond, California 94804.

Summary: Agreement No. T-3759-1, between the City of Richmond (City) and Canal Industrial Park, Inc. (CIP) modifies the basic agreement between the parties which provides for the lease, the nonexclusive preferential assignment and the exclusive assignment to CIP of certain areas at Shipyard Three, Richmond, California. This modification adjusts certain language in the basic agreement in order that the rights of Fred F. Noonan Company, Inc. under Federal Maritime Commission Agreement No. T-2610-C shall continue until the termination date of such rights on August 31, 1979. Also, the City's obligation to repair certain damages on the assigned areas is clarified by this modification. Finally, Paragraph 22 of the basic agreement is amended to read: "CIP or Maritime Services International (MSI), as its designee, shall act as terminal operator for all designated berths on the premises and shall charge each vessel a reasonable fee for services performed in its capacity as the terminal operator and stevedore."

By order of the Federal Maritime Commission.

Dated: February 28, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-6598 Filed 3-5-79; 8:45 am]

[6730-01-M]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 26, 1979 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 5200-34.

Filing Party: David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 5200-34, amends the basic agreement of the Pacific Coast European Conference by adding specific language (1) which establishes uniform rules on credit-use of delinquent list, and (2) which revises the service requirement for refrigerated carriers.

Agreement No. 8054-18.

Filing Party: William L. Hamm, Chairman, South and East Africa/U.S.A. Freight Conference, 25 Broadway, New York, New York 10004.

Summary: Agreement No. 8054-18, among the members of the South and East Africa/U.S.A. Conference would extend the conference's intermodal authority indefinitely or for at least two years from its present expiration date of April 5, 1979.

Agreement No. 9502-13.

Filing Party: William L. Hamm, Chairman, U.S./South and East Africa Freight Conference, 25 Broadway, New York, New York 10004.

Summary: Agreement No. 9502-13 extends the intermodal authority of the conference indefinitely or for at least two years from its present expiration date of April 5, 1979.

Agreement No. 10109-2.

Filing party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10109-2 modifies the basic agreement of the U.S. Atantic and Gulf Coast Non-Container Carriers Discussion Agreement to extend the duration of the agreement beyond May 2, 1979 until terminated by agreement of the parties or by operation law.

Agreement No. T-1768-10.

Filing party: Stanley P. Hebert, Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, California 94607.

Summary: Agreement No. T-1768-10, between the City of Oakland and Sea-Land Services, Inc. (Sea-Land), modifies the parties' basic agreement which provides for the preferential assignment of certain marine terminal facilities to Sea-Land. The basic agreement as previously amended by T-1768-8, provides in paragraph 3(b) for the payment to Sea-Land of 35 percent of terminal charges collected by the port from secondary users either when such secondary use by the port involves cargo passing over the wharf upon the assigned premises in a direct, continuous and uninterrupted movement without the cargo coming to a point of rest within the assignment premises, or when such use involves cargo coming to a point of rest within the assigned premises without having passed over the wharf upon the assigned premises. Agreement No. T-1768-10 further amends paragraph 3(b) to provide that in the event any such secondary use involves the use of only the ship berth area upon the assigned premises for the berthing of a vessel with the cargo being loaded or discharged through the vessel's

stern ramp from or onto Berth 10 adjacent to and not a part of the assigned premises, all terminal charges in connection therewith shall be billed to the secondary user by the port and 19 percent of these terminal charges collected by the port shall be paid to Sea-Land.

Agreement No. T-2800-2.

Filing party: Richard L. Landes, Deputy, City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-2800-2, between the City of Long Beach and Crescent Terminals, Inc. (Crescent), modifies the parties' basic agreement providing for a seven-year nonexclusive preferential assignment to Cresent of certain areas at Pier F, Long Beach, California, to be operated as a public marine terminal. The purpose of this amendment is to delete from the assigned premises a 20-foot strip along the northerly border in order to provide access to Berth 207A, with no change in amount of compensation for use of the assigned premises.

Agreement No. T-3705-1.

Filing party: Richard L. Landes, Deputy, City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3705-1, between the City of Long Beach (City) and Cooper Stevedoring, Inc. (Cooper), amends the existing agreement by providing Cooper with the option to renew the agreement for up to three additional terms of two-years each. Additionally, it provides that City shall use its best efforts to temporarily assign additional cargo areas to Cooper when needed.

Agreement No. T-3715-A.

Filing party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3715-A, between Global Terminal & Container Services, Inc. (Global) and D.D.G. "Hansa" (Hansa) is an agency collection agreement whereby Hansa appoints Global as its agent for the assessment, billing, collection, and administration of free time and demurrage on cargo and containers discharged from its vessels at Global's terminal facilities at the Port of New York. Global shall bill, collect and retain demurrage charges in accordance with the Rules and Regulations of the W.I.N.A.C. Freight Conference and the Marseilles North Atlantic U.S.A. Freight Conference. In the event of non-collection from consignees or brokers, Global shall have not recourse against Hansa.

Agreement No. T-3779.

Filing party: Ivy S. Bernhardson, Attorney, General Mills, Inc., P.O. Box 1113, Minneapolis, Minnesota 55440.

Summary: Agreement No. T-3779, between General Mills, Inc. (GMI) and Seaway Port Authority of Duluth, Minnesota (SPA), provides for the construction of an additional grain storage and handling facility adjacent to the existing GMI grain elevator at the port of Duluth. The construction is to be financed by the sale of revenue bonds to be issued by SPA.

By order of the Federal Maritime Commission.

Dated: February 28, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-6599 Filed 3-5-79; 8:45 am]

[6820-82-M]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 36]

FEDERAL PROCUREMENT

To: Heads of Federal agencies.

Subject: List of basic agreements available for use by executive agencies.

1. *Purpose.* This bulletin lists the current basic agreements of executive agencies which are available for use in the acquisition of research and development from educational institutions and nonprofit organizations in fiscal year 1979.

2. *Expiration date.* The information contained in this bulletin is of a continuing nature and will remain in effect until canceled.

3. *Background.*

(a) Recommendation B-11 of the Commission on Government Procurement provided as follows: "Encourage the use of master agreements of the grant and contract types, which when executed should be used on a work order basis by all agencies and for all types of performers." The Commission based this recommendation on the observation that time and effort could be saved by both the Government and the performers of research and development through the use of prenegotiated terms and conditions allowing for new or additional work to be contracted for on a work order basis.

(b) After extensive study of the recommendation, the General Services Administration and the Department of Defense determined that the purposes of the recommendation would best be served by encouraging the use of basic agreements with educational institutions and nonprofit organizations.

(c) Section 1-3.410-2(e) of the FPR now provides for the publication of FPR bulletins listing the basic agreements of executive agencies on a fiscal year basis as reported by those agencies. This is the third listing of such agreements.

4. *Guidance.* Attachment A indicates a current list of institutions and organizations which have entered into basic agreements with executive agencies. Each institution is listed alphabetically together with a code number which identifies the agency concerned. Attachment B lists agency contact points which may be used to obtain copies of and information concerning the current applicability of the various basic agreements.

5. *Cancellation.* This bulletin cancels GSA Bulletin FPR 31, dated December 27, 1977.

Dated: January 30, 1979.

DALE R. BABIONE,
Assistant Administrator for Acquisition Policy.

BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1979

NOTE.—Where a specific basic agreement number and/or date is cited, the buying office should verify its current applicability. For a copy of or information concerning a particular basic agreement, identify the contractor and its code number and locate the contact point on Attachment B.

Contractor	Basic agreement No. and date	Code
Akron, University of Akron, Ohio	N00014-79-H-0142, January 1, 1979	1
Alabama, University of Huntsville, Alabama	N00014-79-H-0167, January 1, 1979	1
Alabama, University of University, Alabama	N00014-79-H-0130, January 1, 1979	1
Alabama, University of University, Alabama	EW-78-A-02-4821-S, February 1, 1978.	10
Alaska, University of Fairbanks, Alaska	N00014-79-H-0002, January 1, 1979	1
Alaska, University of Fairbanks, Alaska	EY-76-S-06-2229, September 15, 1970.	9
*Allegheny-Singer Research, Pittsburgh, Pennsylvania.	EW-78-A-02-4906-S, February 1, 1978.	10
*American Institute of Biological Sciences, Arlington, Virginia.	N00014-79-H-0003, January 1, 1979	1
American University, Washington, DC	N00014-79-H-0073, January 1, 1979	1
Amherst College, Amherst, Massachusetts	EW-78-A-02-5034-S, February 1, 1978.	10
Arizona Board of Regents, Arizona State University, Tempe, Arizona.	N00014-79-H-0093, January 1, 1979	1
Arizona Board of Regents, University of Arizona, Tuscon, Arizona.	N00014-79-H-0030, January 1, 1979	1
Arizona, University of Tuscon, Arizona	EW-78-A-02-4760-S, February 1, 1978.	10
Arizona, University of Tuscon, Arizona	EY-77-S-08-1516, June 15, 1977	11
Arizona State University, Tempe, Arizona	EW-78-A-02-4876-S, February 1, 1978.	10
Arkansas, University of Board of Trustees, Fayetteville, Arkansas.	N00014-79-H-0151, January 1, 1979	1
*Aspen Institute for Humanistic Studies, New York, New York.	EW-78-A-02-4841-S, February 1, 1978.	10
Auburn University, Auburn, Alabama	N00014-79-H-0141, January 1, 1979	1
Beth Israel Medical Center, New York, New York	N00014-79-H-0085, January 1, 1979	1
Bishop College, Dallas, Texas	N00014-79-H-0106, January 1, 1979	1

Contractor	Basic agreement No. and date	Code
*Boston Biomed. Res. Institution, Boston, Massachusetts.	EW-78-A-02-4892-S, February 1, 1978.	10
Boston College, Trustees of Chestnut Hill, Massachusetts.	N00014-79-H-0117, January 1, 1979	1
Boston University, Boston, Massachusetts	N00014-79-H-0137, January 1, 1979	1
Boston University, Boston, Massachusetts	EW-78-A-02-4922-S, February 1, 1978.	10
*Boyce Thompson Institution, Ithaca, New York	EW-78-A-02-4761-S, February 1, 1978.	10
Brandeis University, Waltham, Massachusetts	N00014-79-H-0182, January 1, 1979	1
Brandeis University, Waltham, Massachusetts	EW-78-A-02-4824-S, February 1, 1978.	10
Brigham Young University, Provo, Utah	N00014-79-H-0174, January 1, 1979	1
Brigham Young University, Provo, Utah	EW-78-A-02-4810-S, February 1, 1978.	10
Brown University, Providence, Rhode Island	N00014-79-H-0042, January 1, 1979	1
Brown University, Providence, Rhode Island	EW-78-A-02-4752-S, February 1, 1978.	10
California Institute of Technology, Pasadena, California.	N00014-79-H-0005, January 1, 1979	1
California Institute of Technology, Pasadena, California.	16850, April 15, 1978	6
California State University, Fullerton, California	EW-78-A-02-4793-S, February 1, 1978.	10
California State University Foundation, Northridge, Northridge, California.	N00014-79-H-0035, January 1, 1979	1
California State University, Long Beach Foundation, Long Beach, California.	N00014-79-H-0035, January 1, 1979	1
California State University, Los Angeles Foundation, Los Angeles, California.	N00014-79-H-0091, January 1, 1979	1
California, The Regents of the University of Berkley, California.	N00014-79-H-0094, January 1, 1979	1
California, The Regents of the University of Berkley, California.	EY-76-S-03-0034, June 15, 1949	8
California, The Regents of the University of Berkley, California.	EY-76-C-03-0010, June 15, 1948	8
Carnegie-Mellon University, Pittsburgh, Pennsylvania.	N00014-79-H-0063, January 1, 1979	1
Carnegie-Mellon University, Pittsburgh, Pennsylvania.	EW-78-A-02-4825-S, February 1, 1978.	10
Case Western Reserve University, Cleveland, Ohio	N00014-79-H-0034, January 1, 1979	1
Case Western Reserve University, Cleveland, Ohio	EW-78-A-02-4801-S, February 1, 1978.	10
Catholic University of America, Washington, DC	N00014-79-H-0074, January 1, 1979	1
*Charles Stark Draper Laboratory, Cambridge, Massachusetts.	N00014-79-H-0007, January 1, 1979	1
Chicago, University of Chicago, Illinois	N00014-79-H-0035, January 1, 1979	1
Chicago, University of Chicago, Illinois	EW-78-A-02-4779-S, February 1, 1978.	10
Children's Hospital Medical Center, Boston, Massachusetts.	N00014-79-H-0132, January 1, 1979	1
Cincinnati, University of Cincinnati, Ohio	N00014-79-H-0147, January 1, 1979	1
Cincinnati, University of Cincinnati, Ohio	EW-78-A-02-4803-S, February 1, 1978.	10
City College Research Foundation, New York, New York.	EW-78-A-02-4828-S, February 1, 1978.	10
Clarkson College of Technology, Potsdam, New York	N00014-79-H-0043, January 1, 1979.	1
Clarkson College of Technology, Potsdam, New York	EW-78-A-02-4762-S, February 1, 1978.	10
Clemson University, Clemson, South Carolina	N00014-79-H-0110, January 1, 1979	1
Colorado School of Mines, Golden Colorado	N00014-79-H-0180, January 1, 1979	1
Colorado School of Mines, Golden Colorado	EW-78-A-02-4700-S, February 1, 1978.	10
Colorado State University, Fort Collins, Colorado	N00014-79-H-0036, January 1, 1979	1
Colorado State University, Fort Collins, Colorado	EW-78-A-02-4781-S, February 1, 1978.	10
Colorado, The Regents of the University of Boulder, Colorado.	N00014-79-H-0118, January 1, 1979	1
Colorado, University of Boulder, Colorado	EW-78-A-02-4782-S, February 1, 1978.	10
Columbia University, New York, New York	EW-78-A-02-4842-S, February 1, 1978.	10
Columbia University, New York, New York	16851, July 14, 1978	6
Columbia University, The Trustees of New York, New York.	N00014-79-H-0006, January 1, 1979	1
Connecticut Health Center, University of Farmington, Connecticut.	N00014-79-H-0150, January 1, 1979	1
Connecticut University of Storrs, Connecticut	N00014-79-H-0066, January 1, 1979	1
Connecticut, University of Storrs, Connecticut	EW-78-A-02-4843-S, February 1, 1978.	10
Cornell University, Ithaca, New York	N00014-79-H-0044, January 1, 1979	1
Cornell University, Ithaca, New York	EW-78-A-02-4851-S, February 1, 1978.	10
Cornell University, Ithaca, New York	ED-78-S-03-1546, February 1, 1978	11
Cornell University Medical College, Ithaca, New York	EW-78-A-02-4852-S, February 1, 1978.	10

Contractor	Basic agreement No. and date	Code
Dartmouth College, Hanover, New Hampshire	N00014-79-H-0121, January 1, 1979	1
Dartmouth College, Hanover, New Hampshire	EW-78-A-02-4883-S, February 1, 1978.	10
Dayton, University of Dayton, Ohio	N00014-79-H-0157, January 1, 1979	1
Dayton, University of Dayton, Ohio	EW-78-A-02-4817-S, February 1, 1978.	10
Delaware, University of Newark, Delaware	N00014-79-H-0103, January 1, 1979	1
Delaware, University of Newark, Delaware	EW-78-A-02-4884-S, February 1, 1978.	10
Dennison University, Grandville, Ohio	EW-78-A-02-4823-S, February 1, 1978.	10
Denver, University of Denver, Colorado	EW-78-A-02-4763-S, February 1, 1978.	10
Denver, University of Denver, Colorado	EG-77-S-08-1526, September 1, 1977	11
Denver, University of (Colorado Seminary), Denver, Colorado.	N00014-79-H-0125, January 1, 1979	1
Drexel University, Philadelphia, Pennsylvania	N00014-79-H-0045, January 1, 1979	1
Drexel University, Philadelphia, Pennsylvania	EW-78-A-02-4764-S, February 1, 1978.	10
Duke University, Durham, North Carolina	N00014-79-H-0071, January 1, 1979	1
Duquesne University, Pittsburgh, Pennsylvania	EW-78-A-02-4891-S, February 1, 1978.	10
Emmanuel College, The Trustees of Boston, Massachusetts.	N00014-79-H-0153, January 1, 1979	1
Emory University, Atlanta, Georgia	N00014-79-H-0081, January 1, 1979	1
*Environmental Research Institute of Michigan, Ann Arbor, Michigan.	N00014-79-H-0172, January 1, 1979	1
Florida A&M University	N00014-79-H-0170, January 1, 1979	1
Florida Institute of Technology, Melbourne, Florida	N00014-79-H-0171, January 1, 1979	1
Florida State University, Tallahassee, Florida	N00014-79-H-0082, January 1, 1979	1
Florida, University of Gainesville, Florida	N00014-79-H-0080, January 1, 1979	1
*Franklin Institute, Research Laboratories, Philadelphia, Pennsylvania.	N00014-79-H-0184, January 1, 1979	1
George Washington University, Washington, D.C.	N00014-79-H-0075, January 1, 1979	1
George Washington University, Washington, D.C.	N00014-79-H-0076, January 1, 1979	1
George Washington University, Washington, D.C.	NOI-CG-5-2032, May 20, 1975	4
Georgia Institute of Technology, Atlanta, Georgia	N00014-79-H-0092, January 1, 1979	1
Georgia State University, Atlanta, Georgia	N00014-79-H-0079, January 1, 1979	1
Georgia Tech Research Institute, Atlanta, Georgia	N00014-79-H-0108, January 1, 1979	1
Georgia, University of Athens, Georgia	N00014-79-H-0152, January 1, 1979	1
Georgia, University of Athens, Georgia	EY-76-S-09-0929, July 6, 1976	7
Gulf Coast Research Laboratory, Ocean Springs, Mississippi.	EW-78-A-02-5078-S, February 1, 1978.	10
Hahnemann Medical College, Philadelphia, Pennsylvania.	N00014-79-H-0046, January 1, 1979	1
Harvard College, President and Fellows of Cambridge, Massachusetts.	N00014-79-H-0028, January 1, 1979	1
Harvard University, Cambridge, Massachusetts	EW-78-A-02-4924-S, January 1, 1979	1
Hawaii, University of Honolulu, Hawaii	N00014-79-H-0008, January 1, 1979	1
Hawaii, University of Honolulu, Hawaii	EY-76-S-03-0235, July 20, 1958	8
Hawaii, University of Honolulu, Hawaii	EY-76-C-08-0703, July 1, 1976	11
Hope College, Holland, Michigan	EW-78-A-02-4802-S, February 1, 1978.	10
Houston, University of Houston, Texas	N00014-79-H-0068, January 1, 1979	1
Howard University, Washington, D.C.	N00014-79-H-0077, January 1, 1979	1
Idaho, University of Moscow, Idaho	N00014-79-H-0164, January 1, 1979	1
Illinois at Chicago Circle, University of Chicago, Illinois.	ED-78-S-08-1603, September 11, 1978	11
Illinois Benedictine College, Lisle, Illinois	EW-78-A-02-4784-S, February 1, 1978.	10
Illinois, Board of Trustees of the University of Urbana, Illinois.	N00014-79-H-0009, January 1, 1979	1
Illinois Institute of Technology, Chicago, Illinois	EY-78-A-02-4874-S, February 1, 1978	10
Illinois Medical Center, University of Chicago, Illinois	N00014-79-H-0086, January 1, 1979	1
Illinois State University, Normal, Illinois	EW-78-A-02-4818-S, February 1, 1978.	10
Illinois, University of Urbana, Illinois	EW-78-A-02-4889-S, February 1, 1978.	10
Indiana University Foundation, Bloomington, Indiana	N00014-79-H-0089, January 1, 1979	1
Indiana, University of Bloomington, Indiana	EW-78-A-02-4804-S, February 1, 1978.	10
*Industrial Health Foundation, Pittsburgh, Pennsylvania.	EW-78-A-02-4907-S, February 1, 1978.	10
*Institute for Advanced Study, Princeton, New Jersey	EW-78-A-02-4837-S; February 1, 1978.	10
*Institute for Cancer Research, Philadelphia, Pennsylvania.	EW-78-A-02-4832-S, February 1, 1978.	10
Iowa State University, Ames, Iowa	EW-78-A-02-4877-S, February 1, 1978.	10
Iowa State University of Science and Technology, Ames, Iowa.	N00014-79-H-0173, January 1, 1979	1

Contractor	Basic agreement No. and date	Code
Iowa, University of Iowa City, Iowa	N00014-79-H-0037, January 1, 1979	1
Iowa, University of Iowa City, Iowa	EW-78-A-02-4844-S, February 1, 1978.	10
Jefferson Thomas University, Philadelphia, Pennsylvania.	EW-78-A-02-4901-S, February 1, 1978.	10
John Carroll University, Cleveland, Ohio	N00014-79-H-0004, January 1, 1979	1
Johns Hopkins University, Baltimore, Maryland	N00014-79-H-0001, January 1, 1979	1
Johns Hopkins University, Baltimore, Maryland	EW-78-A-02-4809-S, February 1, 1978.	10
Kansas State University, Manhattan, Kansas	N00014-79-H-0120, January 1, 1979	1
Kansas State University, Manhattan, Kansas	EW-78-A-02-4822-S, February 1, 1978.	10
Kansas, University of Lawrence, Kansas	N00014-79-H-0005, January 1, 1979	1
Kansas, University of Lawrence, Kansas	EW-78-A-02-4805-S, February 1, 1978.	10
Kent State University, Kent, Ohio	EW-78-A-02-4753-S, February 1, 1978.	10
Kentucky Research Foundation, University of Lexington, Kentucky.	N00014-79-H-0140, January 1, 1979	1
Lehigh University, Bethlehem, Pennsylvania	N00014-79-H-0047, January 1, 1979	1
Lehigh University, Bethlehem, Pennsylvania	EW-78-A-02-4345-S, February 1, 1978.	10
Leland Stanford Junior University, The Board of Trustees of Stanford, California.	N00014-79-H-0029, January 1, 1979	1
Louisiana State University and Agriculture and Mechanical College, Board of Supervisors of the Baton Rouge, Louisiana.	N00014-79-H-0072, January 1, 1979	1
Louisville Foundation, University of Louisville, Kentucky.	N00014-79-H-0148, January 1, 1979	1
Loyola University, Chicago, Illinois	N00014-79-H-0175, January 1, 1979	1
Loyola University, Chicago, Illinois	EW-78-A-02-4870-S, February 1, 1978.	10
Maine University of Orono, Maine	EW-78-A-02-4766-S, February 1, 1978.	10
*Mallory Institute of Pathology Foundation, Boston, Massachusetts.	EW-78-A-02-4871-S, February 1, 1978.	10
*Manomet Bird Observatory, Manomet, Massachusetts	EW-78-A-02-4767-S, February 1, 1978.	10
*Marine Biological Laboratory, Woods Hole, Massachusetts.	EW-78-A-02-4853-S, February 1, 1978.	10
Marquette University, Milwaukee, Wisconsin	EW-78-A-02-4785-S, February 1, 1978.	10
Maryland, University of College Park, Maryland	N00014-79-H-0096, January 1, 1979	1
*Massachusetts General Hospital, Boston, Massachusetts.	N00014-79-H-0133, January 1, 1979	1
*Massachusetts General Hospital, Boston, Massachusetts.	EW-78-A-02-4838-S, February 1, 1978.	10
Massachusetts Institute of Technology, Cambridge, Massachusetts.	N00014-79-H-0049, January 1, 1979	1
Massachusetts Institute of Technology, Cambridge, Massachusetts.	EW-78-A-02-4757-S, February 1, 1978.	10
Massachusetts Institute of Technology, Cambridge, Massachusetts.	16852, July 14, 1979	6
Massachusetts, University of Amherst, Massachusetts.	N00014-79-H-0048, January 1, 1979	1
Massachusetts, University of Amherst, Massachusetts.	EW-78-A-02-4756-S, February 1, 1978.	10
*Memorial Hospital, Pawtucket, Rhode Island	EW-78-A-02-4848-S, February 1, 1978.	10
Miami, University of Coral Gables, Florida	N00014-79-H-0010, January 1, 1979	1
*Michigan Research Center, Okemos, Michigan	EW-78-A-02-4849-S, February 1, 1978.	10
Michigan State University, East Lansing, Michigan	N00014-79-H-0037, January 1, 1979	1
Michigan State University, East Lansing, Michigan	EW-78-A-02-4873-S, February 1, 1978.	10
Michigan Technological University, Houghton, Michigan.	N00014-79-H-0140, January 1, 1979	1
Michigan Technological University, Houghton, Michigan.	EW-78-A-02-4833-S, February 1, 1978.	10
Michigan, The Regents of the University of Ann Arbor, Michigan.	N00014-79-H-0011, January 1, 1979	1
Michigan, University of Ann Arbor, Michigan	EW-78-A-02-4075-S, February 1, 1978.	10
Michigan, University of Ann Arbor, Michigan	ED-78-S-03-1544, January 1, 1978	11
Middlebury College, Middlebury, Vermont	EW-78-A-02-4813-S, February 1, 1978.	10
Minnesota, the Regents of the University of Minneapolis, Minnesota.	N00014-79-H-0012, January 1, 1979	1
Minnesota, University of Minneapolis, Minnesota	EW-78-A-02-4868-S, February 1, 1978.	10
Missouri University Hall, The Curators of Columbia, Missouri.	N00014-79-H-0070, January 1, 1979	1
Missouri, University of Columbia, Missouri	EW-78-A-02-4755-S, February 1, 1978.	10

Contractor	Basic agreement No. and date	Code
Montana College of Mineral Science and Technology, Butte, Montana.	EY-76-S-06-2426, March 15, 1976	9
Montana State University, Bozeman, Montana	N00014-79-H-0159, January 1, 1979	1
Montana State University, Bozeman, Montana	EY-76-S-06-2220, June 1, 1970	9
Montana, University of Missoula, Montana	N00014-79-H-0162, January 1, 1979	1
Montana, University of Missoula, Montana	EY-76-S-06-2232, May 1, 1972	9
Mount Holyoke College, South Hadley, Massachusetts.	EW-78-A-02-4860-S, February 1, 1978.	10
*National Academy of Sciences, Washington, D.C.	N00014-79-H-0013, January 1, 1979	1
*National Academy of Sciences, Washington, D.C.	79-02700, October 1, 1978	2
*National Academy of Sciences, Washington, D.C.	79-02701, October 1, 1978	2
*National Academy of Sciences, Washington, D.C.	79-02702, October 1, 1978	2
*National Academy of Sciences, Washington, D.C.	OS-90007, October 1, 1978	3
Nebraska, University of, Lincoln, Nebraska	EW-78-A-02-0769-S, February 1, 1978.	10
Nevada-Reno, University of Reno, Nevada	ET-78-S-08-1556, April 1, 1978	11
Nevada System, University of Desert Research Institute, Reno, Nevada.	N00014-79-H-0119, January 1, 1979	1
*New England Aquarium, Boston, Massachusetts	EW-78-A-02-4893-S, February 1, 1978.	10
*New England Deaconess Hospital, Boston, Massachusetts.	EW-78-A-02-4770-S, February 1, 1978.	10
New Hampshire, University of Durham, New Hampshire.	N00014-79-H-0050, January 1, 1979	1
New Hampshire, University of Durham, New Hampshire.	EW-78-A-02-5067-S, February 1, 1978.	10
New Mexico Institute of Mining and Technology, Socorro, New Mexico.	N00014-79-H-0031, January 1, 1979	1
New Mexico State University, Physical Science Lab., Las Cruces, New Mexico.	N00014-79-H-0032, January 1, 1979	1
New Mexico University, Regents of University Hill, Albuquerque, New Mexico.	N00014-79-H-0136, January 1, 1979	1
New York City University, Research Foundation on behalf of City College, New York, New York.	N00014-79-H-0056, January 1, 1979	1
New York Medical College, New York, New York	EW-78-A-02-5020-S, February 1, 1978.	10
*New York State Department of Health, New York, New York.	EW-78-A-02-4838-S, February 1, 1978.	10
New York State University, Research Foundation of Albany, New York.	N00014-79-H-0057, January 1, 1979	1
New York University, New York, New York	N00014-79-H-0014, January 1, 1979	1
New York University (NYC), New York, New York	EW-78-A-02-4856-S, February 1, 1978.	10
New York University Medical Center, New York, New York.	N00014-79-H-0102, January 1, 1979	1
New York University Medical School, New York, New York.	EW-78-A-02-4857-S, February 1, 1978.	10
New York, University of New York, New York	ED-78-G-08-1564, June 15, 1978	11
Niagara University, Niagara, New York	EW-78-A-02-4846-S, February 1, 1978.	10
North Carolina at Chapel Hill, University of Chapel Hill, North Carolina.	N00014-79-H-0101, January 1, 1979	1
North Carolina at Charlotte, University of Charlotte, North Carolina.	N00014-79-H-0144, January 1, 1979	1
North Carolina at Wilmington, University of Wilmington, North Carolina.	N00014-79-H0144, January 1, 1979	1
North Carolina State University at Raleigh, Raleigh, North Carolina.	N00014-79-H-0131, January 1, 1979	1
North Dakota, University of Grand Forks, North Dakota.	N00014-79-H-0114, January 1, 1979	1
Northeastern University, Boston, Massachusetts	N00014-79-H-0051	1
Northeastern University, Boston Massachusetts	EW-78-A-02-4826-S, February 1, 1978.	10
Northern Illinois University, Dekalb, Illinois	EW-78-A-02-5072-S, February 1, 1978.	10
Northwestern University, Evanston, Illinois	N00014-79-H-0038, January 1, 1979	1
Northwestern University, Evanston, Illinois	EW-78-A-02-4858-S, February 1, 1978.	10
Notre Dame Du Lac, University of Notre Dame, Indiana.	N00014-79-H-0143, January 1, 1979	1
Notre Dame, University of South Bend, Indiana	EW-78-A-02-4789-S, February 1, 1978.	10
Nova University, Fort Lauderdale, Florida	N00014-79-H-0067, January 1, 1979	1
Oakland University, Rochester, Michigan	N00014-79-H-0139, January 1, 1979	1
Oakland University, Rochester, Michigan	EW-78-A-02-4790-S, February 1, 1978.	10
Ohio State University Research Foundation, Columbus, Ohio.	N00014-79-H-0039, January 1, 1979	1
Ohio State University Research Foundation, Columbus, Ohio.	EW-78-A-02-4791-S, February 1, 1978.	10

Contractor	Basic agreement No. and date	Code
Ohio University, Athens, Ohio	EW-78-A-02-4782-S, February 1, 1978.	10
Oklahoma State University of Agriculture and Applied Science, Stillwater, Oklahoma.	N00014-79-H-0100, January 1, 1979	1
Oklahoma, University of Norman, Oklahoma	N00014-79-H-0138, January 1, 1979	1
Oklahoma, University of Norman, Oklahoma	EW-78-A-02-4866-S, February 1, 1978.	10
Old Dominion University Research Foundation, Norfolk, Virginia.	N00014-79-H-0127, January 1, 1979	1
Oregon College of Education, Monmouth, Oregon	EY-76-S-06-2231, March 1, 1972	9
Oregon Graduate Center for Study and Research, Beaverton, Oregon.	N00014-79-H-0165, January 1, 1979	1
Oregon Health Science Center, University of Portland, Oregon.	EY-76-S-06-2226, November 1, 1969	9
Oregon Institute of Technology, Klamath Falls, Oregon.	ET-78-S-06-1102, July 15, 1978	9
Oregon State University, Corvallis, Oregon	EY-76-S-06-2227, January 1, 1970	9
Oregon State University, The State of Oregon acting by and through the State Department of Higher Education of behalf of Corvallis, Oregon.	N00014-79-H-0015, January 1, 1979	1
Oregon, University of Eugene, Oregon	EY-70-S-06-2230, August 1, 1970	9
Oregon, University of The State of Oregon acting by and through the State Board of Higher Education on behalf of.	N00014-79-H-0163, January 1, 1979	1
Pennsylvania State University, University Park, Pennsylvania.	N00014-79-H-0052, January 1, 1979	1
Pennsylvania State University, University Park, Pennsylvania.	EW-78-A-02-4840-S, February 1, 1978.	10
Pennsylvania, The Trustees of the University of Philadelphia, Pennsylvania.	N00014-79-H-0016, January 1, 1979	1
Pennsylvania, University of Philadelphia, Pennsylvania.	EW-78-A-02-4806-S, February 1, 1978.	10
Pittsburgh, University of Pittsburgh, Pennsylvania	N00014-79-H-0053, January 1, 1979	1
Pittsburgh, University of Pittsburgh, Pennsylvania	EW-78-A-02-4793-S, February 1, 1978.	10
Polytechnic Institute of New York, Brooklyn, New York.	N00014-79-H-0054, January 1, 1979	1
Princeton University, Princeton, New Jersey	EW-78-A-02-4756-S, February 1, 1978.	10
Princeton University, The Trustees of Princeton, New Jersey.	N00014-79-H-0018, January 1, 1979	1
Purdue Research Foundation, West Lafayette, Indiana	N00014-79-H-0019, January 1, 1979	1
Purdue Research Foundation, West Lafayette, Indiana	EW-78-A-02-4814-S February 1, 1978	10
Regis College, Weston, Massachusetts	N00014-79-H-0181, January 1, 1979	1
Rensselaer Polytechnic Institute, Troy, New York	N00014-79-H-0055, January 1, 1979	1
Rensselaer Polytechnic Institute, Troy, New York	EW-78-A-02-4771-S, February 1, 1978.	10
Research Foundation of St. University of New York, Stonybrook, New York.	EW-78-A-02-4772-S, February 1, 1978.	10
Rhode Island, University of Kingston, Rhode Island	N00014-79-H-0058, January 1, 1979	1
Rhode Island, University of Kingston, Rhode Island	EW-78-A-02-4754-S, February 1, 1978.	10
Rice, William Marsh University, Houston, Texas	N00014-79-H-0062, January 1, 1979	1
Rochester, University of Rochester, New York	N00014-79-H-0145, January 1, 1979	1
Rutgers, the State University, New Brunswick, New Jersey.	N00014-79-H-0004, January 1, 1979	1
Rutgers University, New Brunswick, New Jersey	EW-78-A-02-4827-S, February 1, 1978.	10
Saint Louis University, St. Louis, Missouri	N00014-79-H-0158, January 1, 1979	1
San Diego State University Foundation, San Diego, California.	N00014-79-H-0021, January 1, 1979	1
San Jose State University Foundation, San Diego, California.	N00014-79-H-0021, January 1, 1979	1
Seattle University, Seattle, Washington	N00014-79-H-0070, January 1, 1979	1
*Siam Institute for Mathematical Society, Philadelphia, Pennsylvania.	EW-78-A-02-4803-S, February 1, 1978.	10
*Sloan Kettering Institution, New York, New York	EW-78-A-02-4864-S, February 1, 1978.	10
*Smithsonian Institution, Washington, D.C	N00014-79-H-0123, January 1, 1979	1
*Smithsonian Institution, Washington, D.C	EW-78-A-02-4794-S, February 1, 1978.	10
*Society of Nuclear Medical, Inc., New York, New York.	EW-78-A-02-4836-S, February 1, 1978.	10
South Dakota School of Mines and Technology, Rapid City, South Dakota.	N00014-79-H-0038, January 1, 1979	1
South Florida, University of Tampa, Florida	N00014-79-H-0069, January 1, 1979	1
Southern California, University of Los Angeles, California.	N00014-79-H-0022, January 1, 1979	1
Southern California, University of Los Angeles, California.	EY-76-S-03-0113, June 15, 1950	8
Southern California, University of Los Angeles, California.	ET-78-S-03-1579, August 1, 1978	11
Southern Methodist Unversity Research Administration, Dallas, Texas.	N00014-79-H-0115, January 1, 1979	1

Contractor	Basic agreement No. and date	Code
Southwest Research Institute, Washington, D.C.	FH-119486, October 1978	3
*Stanford Research Institute International, Menlo Park, California.	N00014-79-H-0168, January 1, 1979	1
Stanford University, Stanford, California	EY-76-S-03-0326, October 1, 1959	8
Stanford University, Stanford, California	EW-78-A-02-4820-S, February 1, 1978.	10
Stevens Institute of Technology, Hoboken, New Jersey.	EW-78-A-02-4796-S, February 1, 1978.	10
Stevens Institute of Technology, The Trustees of Hoboken, New Jersey.	N00014-79-H-0059, January 1, 1979	1
Syracuse University, Syracuse, New York	N00014-79-H-0154, January 1, 1979	1
Syracuse University, Syracuse, New York	EW-78-A-02-4847-S, February 1, 1978.	10
Temple University, Philadelphia, Pennsylvania	EW-78-A-02-4811-S, February 1, 1978.	10
Tennessee, University of Knoxville, Tennessee	N00014-79-H-0098, January 1, 1979	1
Texas A&M Research Foundation, College Station, Texas.	N00014-79-H-0024, January 1, 1979	1
Texas A&M Research Foundation, College Station, Texas.	EW-78-A-02-4859-S, February 1, 1978.	10
Texas A&M/Texas Transportation Institute, College Station, Texas.	FH-119485, October 1978	3
Texas at Austin, University of Austin, Texas	ET-78-C-08-1580, September 1, 1978	11
Texas Christian University, Fort Worth, Texas	N00014-79-H-0169, January 1, 1979	1
Texas System, University of Austin, Texas	N00014-79-H-0023, January 1, 1979	1
Texas Technological University, Lubbock, Texas	N00014-79-H-0135, January 1, 1979	1
*The Jackson Laboratory, Bar Harbor, Maine	EW-78-A-02-4897-S, February 1, 1978.	10
Tufts University, Medford, Massachusetts	N00014-79-H-0155, January 1, 1979	1
Tufts University, Medford, Massachusetts	EW-78-A-02-4890-S, February 1, 1978.	10
Tulane University, New Orleans, Louisiana	N00014-79-H-0107, January 1, 1979	1
Tuskegee Institute, Tuskegee, Alabama	N00014-79-H-0149, January 1, 1979	1
Union College, Schenectady, New York	N00014-79-H-0126, January 1, 1979	1
University of Colorado Medical Center, Denver, Colorado.	EW-78-A-02-4783-S, February 1, 1978.	10
University of Michigan, College of Architecture and Urban Planning, Ann Arbor, Michigan.	GS-05BC-90410, September 27, 1976	5
University of Rochester, Rochester, New York	EW-78-A-02-4807-S, February 1, 1978.	10
Utah State University, Logan, Utah	N00014-79-H-0160, January 1, 1979	1
Utah, University of Salt Lake City, Utah	N00014-79-H-0033, January 1, 1979	1
Utah, University of Salt Lake City, Utah	EG-77-S-03-1484, July 1, 1977	8
Utah, University of Salt Lake City, Utah	EW-78-02-4808-S, February 1, 1978	10
Vassar College, Poughkeepsie, New York	EW-78-A-02-4819-S, February 1, 1978.	10
Vermont, University of Burlington, Vermont	N00014-79-H-0134, January 1, 1979	1
Vermont, University of Burlington, Vermont	EW-78-A-01-4773-S, February 1, 1978.	10
Virginia Commonwealth University, Richmond, Virginia.	N00014-79-H-0104, January 1, 1979	1
Virginia Polytechnic Institute and State University, Blacksburg, Virginia.	N00014-79-H-0099, January 1, 1979	1
Virginia Polytechnic Institute and State University, Blacksburg, Virginia.	EW-78-A-01-4809-S, February 1, 1978.	10
Virginia State College, Petersburg, Virginia	N00014-7-H-0129, January 1, 1979	1
Virginia, The Rector and Visitors of the University of Charlottesville, Virginia.	N00014-79-H-0025, January 1, 1979	1
Wake Forest University (Bowman Gray School of Medicine), Winston-Salem, North Carolina.	N00014-79-H-0083, January 1, 1979	1
Washington State University, Pullman, Washington	N00014-79-H-0091, January 1, 1979	1
Washington State University, Pullman, Washington	EY-76-S-06-2221, February 1, 1970	9
Washington, The Board of Regents of the University of Seattle, Washington.	N00014-79-H-0026, January 1, 1979	1
Washington University, St. Louis, Missouri	N00014-79-H-0124, January 1, 1979	1
Washington Unviersity, St. Louis, Missouri	EW-78-A-02-4797-S, February 1, 1978.	10
Washington University of Seattle, Washington	EY-76-S-2225, October 1, 1969	9
Washington, University of Seattle, Washington	EY-76-S-08-0269, July 1, 1966	11
Wayne State University, Detroit, Michigan	N00014-79-H-0105, January 1, 1979	1
Wayne State University, Detroit, Michigan	EW-78-A-02-4887-S, February 1, 1978.	10
Wentworth Institute of Technology, Inc., Boston, Massachusetts.	N00014-79-H-0156, January 1, 1979	1
Wesleyan University, Middletown, Connecticut	EW-78-02-4882-S, February 1, 1978	10
West Virginia Board of Regents on behalf of West Virginia University, Morgantown, West Virginia.	N00014-79-H-0100, January 1, 1979	1
William and Mary, College of Williamsburg, Virginia	N00014-79-H-0110, January 1, 1979	1
Williams College, Williamstown, Massachusetts	EW-78-A-02-5019-S, February 1, 1978.	10
Wisconsin-Madison, University of Madison, Wisconsin	EW-78-A-02-4853-S, February 1, 1978.	10

Contractor	Basic agreement No. and date	Code
Wisconsin-Milwaukee, University of Milwaukee, Wisconsin.	EW-78-A-02-4854-S, February 1, 1978.	10
Wisconsin System, Board of Regents of the University of Madison, Wisconsin.	N00014-79-H-0041, January 1, 1979	1
Wisconsin-Whitewater, University of Whitewater, Wisconsin.	EW-78-A-02-4855-S, February 1, 1978.	10
*Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.	N00014-79-H-0183, January 1, 1979	1
*Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.	EW-78-A-02-4039-S, February 1, 1978.	10
Worcester Polytechnic Institute, Worcester, Massachusetts.	N00014-79-H-0128, January 1, 1979	1
Worcester Polytechnic Institute, Worcester, Massachusetts.	EW-78-A-02-4815-S, February 1, 1978.	10
Wright State University, Dayton; Ohio	EW-78-A-02-4751-S, February 1, 1978.	10
Wyoming, University of Laramie, Wyoming	N00014-79-H-0122, January 1, 1979	1
Wyoming, University of Laramie, Wyoming	EW-A-02-4774-S, February 1, 1978	10
Yale University, New Haven, Connecticut	N00014-79-H-0027, January 1, 1979	1
Yale University, New Haven, Connecticut	EW-78-02-4895-S, February 1, 1978	10
Yeshiva University, New York, New York	N00014-79-H-0060, January 1, 1979	1

*Nonprofit Organization.

CONTACT POINTS FOR INFORMATION ON THE BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS FISCAL YEAR 1979

Contact points	Code
Mr. Ken Popham, Office of Naval Research (Code 011), 800 North Quincy Street, Arlington, VA 22217, (202) 692-4605.	1
Mr. Leonard A. Redecke, Deputy Director, Division of Grants and Contracts, National Science Foundation, Washington, D.C. 20550, (202) 632-5872.	2
Mr. Barnett M. Ancelcitz, Director of Installations and Logistics, Office of the Secretary, Department of Transportation, Washington, D.C. 20590, (202) 426-4237.	3
Mr. Chuck M. Lord, Procurement Annalyst, Office of Grants and Procurement Management, Department of Health, Education and Welfare, Washington, D.C. 20201, (202) 245-6347.	4
Mr. Thomas McNamara, Construction Management Division, Public Buildings Service, General Services Administration, Chicago, IL 60604, (312) 353-1575.	5
Mr. William Burk, Chief, Branch of Procurement and Contracts, Department of Interior, Reston, VA 22092, (703) 860-7261.	6
D. C. Drennon, Chief, Contracts and Procurement Branch, Department of Energy, Savannah River Operations Office, Aiken, SC 29801, (803) 725-6211 (Ext. 3350).	7
Mr. Charles Berger, Contracts and Management, Systems Branch, Department of Energy, San Francisco Operations Office, Oakland, CA 94612, (415) 273-4111.	8
Marji Parker, Contracting Officer's Representative, Department of Energy, Richland Operations Office, Richland, WA 99352, (509) 942-7263.	9
Mr. Thomas Katisch, Assistant Director for Development, Department of Energy, Chicago Operations Office, Argonne, IL 60439, (312) 972-2039.	10
Mr. Daryl B. Morse, Director, Contracts and Procurement Division, Department of Energy, Nevada Operations Office, Las Vegas, NV 89114, (702) 734-3206.	11

[FR Doc. 79-6416 Filed 3-5-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

BOARD OF SCIENTIFIC COUNSELORS, NIMH

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the Board of Scientific Counselors, NIMH.

Authority for this committee will expire January 4, 1981, unless the Secretary formally determines that continuance is in the public interest.

Dated: February 21, 1979.

GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 79-6614 Filed 3-5-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

[Docket No. 79N-0018]

MEDICAL DEVICES

Availability of Generic Device Name Index for Classification Regulations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is announcing the availability of an index of generic names of medical devices used in proposed classification regulations.

The generic device name index will assist in finding the specific classification regulation for a device classified by more than one classification panel.

ADDRESS: The generic device name index for classification regulations is available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert S. Kennedy, Bureau of Medical Devices (HFK-401), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7900.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583), amending the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq. (21 U.S.C. 301 et seq.)) became law on May 28, 1976. Section 513 of the act (21 U.S.C. 360c) requires the Commissioner of Food and Drugs to classify medical devices into one of three regulatory control classes: class I, general controls; class II, performance standards; and class III, premarket approval. The agency is in the process of publishing in the FEDERAL REGISTER proposed classification regulations along with the recommendations of the various medical device classification panels. The first group of proposed classification regulations to publish concerned neurological devices. These were published in the FEDERAL REGISTER of November 28, 1978 (43 FR 55640).

The agency is reviewing the classification recommendations of the various device classification panels that are organized by medical specialty areas. This review has revealed that a generic name device can be used by several medical specialties under different device brand or descriptive names, causing the device to be reviewed by more than one classification panel. When this is the case, the agency will publish only one proposed classification regulation for the generic name device.

The index that FDA is making available pursuant to this notice is correct as of date of publication. Additional changes in device classification names may still occur before final classification regulations are published. If the need arises, FDA will update the index and publish another notice to announce its availability.

The index shows the Device Registration and Listing Product Code for each device reviewed by a classification panel, along with the corresponding generic device name and classification panel with whose classification regulations the classification of that device will be published in the FEDERAL REGISTER. A copy of the index has been placed on public file in the office of the Hearing Clerk (address below) and may be seen in that office from 9 a.m. to 4 p.m., Monday through Friday. Copies of the index may be obtained upon request from the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Requests should specify the Hearing Clerk docket number found in brackets in the heading of this document.

Dated: February 28, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6587 Filed 3-5-79; 8:45 am]

[4110-03-M]

TRANSFER OF ADMINISTRATIVE RESPONSIBILITY FOR OPHTHALMIC HARD CONTACT LENS SOLUTIONS PREVIOUSLY CONSIDERED OVER-THE-COUNTER DRUGS

Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that the Food and Drug Administration (FDA) has transferred administrative responsibility for over-the-counter (OTC) opthalmic hard contact lens solutions from the Bureau of Drugs to the Bureau of Medical Devices. In addition, all related data and information developed by, or submitted to, the Advisory Review Panel on OTC Opthalmic Drug Products have been transferred to the Bureau of Medical Devices. This action was taken to implement the Medical Device Amendments of 1976, under which several products previously regarded as drugs now come within the definition of a medical device intended for human use.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7443.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of April 26, 1973 (38 FR 10306), the Commissioner of Food and Drugs requested the submission of data and information on all OTC ophthalmic drug products. The data and information received in response to the notice have been reviewed by the FDA Advisory Review Panel on OTC Ophthalmic Drug Products under the procedures in § 330.10 (21 CFR 330.10). On May 28, 1976, the Medical Device Amendments of 1976 (Pub. L. 94-295) were enacted. Under these amendments, several products that had been previously regarded as drugs and were under review by the Panel, became medical devices within the expanded definition of "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

In the FEDERAL REGISTER of December 16, 1977 (42 FR 63472), FDA issued a notice of implementation of the transitional provisions of the Medical Device Amendments for articles previously considered new drugs or antibiotic drugs. The notice explained the transitional provisions of the amendments, listed generic types of medical devices previously regarded as drugs, explained which of these types are to be subject to premarket approval requirements, indicated which bureau in FDA regulates the products, and explained how manufacturers and importers can petition for changes in the regulatory classification of medical devices intended for human use. In this notice, FDA stated that ophthalmic lens cleaning (sterilizing) solutions and wetting agents for hard contact lenses were previously considered drugs for which premarket approval was not required, but now fall within the definition of "device."

This document announces that FDA has transferred the administrative responsibility for OTC hard contact lens solutions from the Bureau of Drugs to the Bureau of Medical Devices. In addition, FDA has transferred to the Bureau of Medical Devices the responsibility of reviewing a summary of the findings of the Advisory Review Panel on OTC Ophthalmic Drug Products on the safety, effectiveness, and labeling of these hard contact lens solutions and wetting agents. The Panel has emphasized that the summary is not a definitive review but is only a compilation of its work papers on the subject through September 16, 1978. This summary has been appended to the minutes of the September 15 and 16, 1978 Panel meeting and was made available to the public after Panel approval of the minutes during its December 15 and 16, 1978 meeting. The summary has been prepared independently of FDA and does not necessarily represent the agency's position. The Bureau of Medical Devices will, however, consider this summary in making decisions about the regulation of hard contact lens solutions and wetting agents.

The data and information on hard contact lens solutions and wetting agents that were submitted to FDA in response to the April 26, 1973 notice have been transferred to the Bureau of Medical Devices. Persons who sub-

mitted data or information on these products to the Panel will be notified by letter of the transfer.

Dated: February 27, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6586 Filed 3-5-79; 8:45 am]

[4110-03-M]

TRANSFER OF RESPONSIBILITY FOR REVIEW OF OVER-THE-COUNTER DRUG PRODUCTS FOR THE TREATMENT OR PROHPHYLAXIS OF DANDRUFF OR SEBORRHEA

Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has transferred responsibility for the review of over-the-counter (OTC) drug products for the treatment or prophylaxis of dandruff or seborrhea from the Advisory Review Panel on OTC Antimicrobial (II) Drug Products to the Advisory Review Panel on OTC Miscellaneous External Drug Products. Data and information developed by, and all submissions to, the Advisory Review Panel on OTC Antimicrobial (II) Drug Products regarding drug products or active ingredients recommended for this use have been transferred to the Advisory Review Panel on OTC Miscellaneous External Drug Products.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of December 16, 1972 (37 FR 26842), FDA requested the submission of data and information on antimicrobial active ingredients for the treatment or prophylaxis (prevention) of specific disorders including dandruff and seborrhea. The data and information revceived in response to the notice were submitted to the FDA Advisory Review Panel on OTC Antimicrobial (II) Drug Products for review under the procedures in § 330.10 (21 CFR 330.10) for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs.

In notices published in the FEDERAL REGISTER of November 16, 1973 (38 FR 31697), and August 27, 1975 (40 FR 38179), FDA requested the submission of data and information on miscellaneous external drug products including those used for hair growers, psoriasis, and sebum hair loss. The August 27, 1975 notice was published because the response to the November 16, 1973 notice was inadequate. The data and information received in response to these two notices were submitted to the FDA Advisory Review Panel on OTC Miscellaneous External Drug Products for review under the procedures in § 330.10 (21 CFR 330.10). Because there is a considerable amount of overlapping of ingredients and data between the two panels in their review and consideration of agents for the treatment or prophylaxis of dandruff, seborrhea, and psoriasis, a review of all ingredients by one panel would save much time and effort.

Therefore, FDA has concluded that it would greatly facilitate the review of these drug products if active ingredients for the treatment or prophylaxis of dandruff, seborrhea, and psoriasis were reviewed by the same advisory review panel. After carefully considering the schedules, workloads, and available expertise of both panels, the agency has determined that this review should be the responsibility of the Advisory Review Panel on OTC Miscellaneous External Drug Products. Members of the Advisory Review Panel on OTC Antimicrobial (II) Drug Products may be invited to serve as consultants to the Advisory Review Panel on OTC Miscellaneous External Drug Products if their assistance is needed for those overlapping ingredients that have an antimicrobial action.

This notice therefore announces that FDA has transferred the review responsibility for drug active ingredients for the treatment or prophylaxis of dandruff and seborrhea from the Advisory Review Panel on OTC Antimicrobial (II) Drug Products to the Advisory Review Panel on OTC Miscellaneous External Drug Products. All data and information on drug active ingredients for the treatment or prophylaxis of dandruff and seborrhea submitted in response to the December 16, 1972 notice that were submitted to the Advisory Review Panel on OTC Antimicrobial (II) Drug Products are being transferred and need not be resubmitted.

Persons who submitted data and information on these products and ingredients will be notified by letter of the transfer to the Advisory Review Panel on OTC Miscellaneous External Drug Products.

Dated: February 23, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-6585 Filed 3-5-79; 8:45 am]

[4110-35-M]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Maximum Allowable Cost Limits For Certain Drugs: Closing of the Record

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: The comment periods for the following drugs will close on (15 days from date of publication): (1) amoxicillin 250 and 500 mg capsules and amoxicillin oral solution 125 and 250 mg/5cc; (2) hydrochlorothiazide 25 and 50 mg tablets; and (3) erythromycin (base) 250 tablets.

DATE: End of comment period: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street S.W., Washington, D.C. 20201 202-472-3820.

SUPPLEMENTARY INFORMATION: 1. On August 21, 1978 the Pharmaceutical Reimbursement Board (Board) announced proposed MAC limits and a public hearing on October 18 and 19, for amoxicillin 250 and 500 mg capsules and amoxicillin oral solution 125 and 250 mg/5cc. (See 43 FR 40547-8). We later extended the comment period in order to review claims of patent infringement with regard to amoxicillin (See 43 FR 56102-3). We now find it necessary to reopen the record and extend the comment period until [15 days from date of publication] in order to include in the record the FDA response to a drug quality issue raised during the comment period. The purpose of this notice is to inform interested persons that the FDA analysis has been received and is now available for inspection in the Office of Pharmaceutical Reimbursement, Room 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201. Those who wish to have their comments on the FDA analysis included in the record must submit them by March 21, 1979.

2. In reference to hydrochlorothiazide and erythromycin, the Board announced proposed MAC limits and a public hearing (See 43 FR 40547-8 and 43 FR 38941). On October 27, 1978 FDA informed us that, "in light of the data we have recently received through the Board from Upjohn and directly from Merck regarding the quality of marketed hydrochlorothiazide and erythromycin products, we

are advising the Board to delay MAC limits on these drugs until FDA has had an opportunity to fully evaluate the data presented in writing and at the scheduled hearings". On November 30, 1978 as a result of the advice of FDA, the record on these drugs was left open and the comment period was extended (See 43 FR 56102-3). The purpose of this notice is to inform interested persons that the FDA has concluded its evaluation of the Merck and Upjohn data and that the FDA Reports are available for inspection in the Office of Pharmaceutical Reimbursement, Room 3076 Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Those who wish to have their comments on the FDA analysis included in the record must submit them by March 21, 1979.

Dated: February 28, 1979.

PETER J. RODLER,
Executive Secretary,
Pharmaceutical
Reimbursement Board.

[FR Doc. 79-6456 Filed 3-5-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Bear Country U.S.A., Keystone Route, Box 205, Rapid City, South Dakota 57701.

The applicant requests a permit to export one male and one female captive-bred gray wolf (*Canis lupus*) to the Calgary Zoo, Alberta, Canada, for propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3649. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 5, 1979. Please refer to the file number when submitting comments.

Dated: February 26, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, Fish
and Wildlife Service.

[FR Doc. 79-6589 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: R. Howard Hunt, Atlanta Zoological Park, Atlanta, Georgia 30315.

The applicant requests an amendment to his permit to extend the expiration date and to export 36 Morelet's crocodiles (*Crocodylus moreletii*) to Mexico instead of Belize for the enhancement of survival of the species.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2188. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 5, 1979. Please refer to the file number when submitting comments.

Dated: February 28, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, Fish
and Wildlife Service.

[FR Doc. 79-6590 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Anthony Nastas, 1840 W. Lawrence Ave., Ellwood City, Pennsylvania 16117.

The applicant requests a permit to buy one pair of masked bobwhite quail (*Colinus virginianus ridgwayi*) in interstate commerce for propagation from Mr. Jeff Earl, Santa Cruz, California.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3670. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 5, 1979. Please refer to the file number when submitting comments.

Dated: February 26, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, Fish
and Wildlife Service.

[FR Doc. 79-6591 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED AND THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Dr. James P. Ross, Museum of Comparative Zoology, Harvard University, Cambridge, Massachusetts 02138.

The applicant requests a permit to import 10 hatchlings of each of the following species: hawksbill (*Eretmochelys imbricata*), green (*Chelonia mydas*), olive ridley (*Lepidochelys olivacea*) and loggerhead (*Caretta caretta*) from the Sultanate of Oman for the purpose of scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3851. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 5, 1979. Please refer to the file number when submitting comments.

Dated: February 27, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, Fish
and Wildlife Service.

[FR Doc. 79-6592 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Safari Club International, North Carolina Chapter, P.O. Drawer D, Greensboro, North Carolina 27402.

The applicant requests a permit to import hides, horns and parts of hunting trophies of 12 male and 4 female red lechwes (*Kobus leche leche*) for the purpose of enhancement of propagation and survival of the species. The red lechwes to be taken are on a farm in the Republic of South Africa.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N.

Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3783. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 5, 1979. Please refer to the file number when submitting comments.

Dated: February 28, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-6593 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Withdrawal of Application

Applicant: Safari Club International, 5151 East Broadway, Suite 1680, Tucson, Arizona 85711.

The endangered species import permit application submitted by Safari Club International, file number PRT 2-3246, is withdrawn upon the January 31, 1979, request of Mr. C. S. McElroy, Chairman of the Board.

That request has been granted and no further processing of application number PRT 2-3246 will be accomplished.

Dated: February 28, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-6594 Filed 3-5-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. John Vandenbergh, Department of Zoology, North Carolina State University, Raleigh, North Carolina 27650.

The applicant requests a permit to capture red-cockaded woodpeckers (*Picoides borealis*) in North Carolina for banding, attachment of radio transmitters and releas for scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3853. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before . Please refer to the file number when submitting comments.

Dated: February 26, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-6595 Filed 3-5-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Lauderdale County

Florence, *Wilson Park Houses*, 209, 217 and 223 E. Tuscaloosa St. (1-25-79)

Mobile County

Mobile, *Lower Dauphin Street Historic District*, 171-614 Dauphin St. (2-9-79)

Montgomery County

Montgomery, *Steiner-Lobman and Teague Hardware Buildings*, 184 and 172 Commerce St. (1-31-79)
Montgomery vicinity, *Harrington Archeological Site*, S of Montgomery (1-25-79)

Wilcox County

Camden, *Wilcox County Courthouse Historic District*, irregular pattern along Broad St. (1-23-79)

ALASKA

Bristol Bay Division

Nondalton vicinity, *Kijik Historic District*, E of Nondalton at Lake Clark and Kijik River (1-29-79)

ARIZONA

Cochise County

Bisbee, *Muheim House*, 207 Youngblood Ave. (1-23-79)

Coconino County

Flagstaff vicinity, *Walnut Canyon Dam*, SE of Flagstaff (1-29-79)

Navajo County

Shumway, *Shumway School*, off AZ 77 (1-29-79)

Yuma County

Yuma, *Blaisdell Slow Sand Filter Washing Machine*, N. Jones St. (1-25-79)

ARKANSAS

Columbia County

Magnolia vicinity, *Old Alexander House*, NE of Magnolia (1-9-79)

Drew County

Monticello, *Monticello North Main Street Historic District*, irregular pattern along Westwood Ave. and N. Main St. (2-2-79)

Jefferson County

Pine Bluff, *Boone-Murphy House*, 714 W. 4th Ave. (2-14-79)

Monroe County

Holly Grove, *Holly Grove Historic District*, Main and Pine Sts. (2-2-79)

Newton County

Parthenon, *Newton County Academy*, Gum Springs Rd. (1-9-79)

Pulaski County

Little Rock, *Bechle House*, 1004 E. 9th St. (2-8-79)

CALIFORNIA

Alameda County

Oakland, *Federal Realty Building (Pierce Building)* 1615 Broadway (1-29-79)
Oakland, *Fox-Oakland Theater*, 1807-1829 Telegraph Ave. (2-9-79)

Fresno County

Fresno, *Fresno Republican Printery Building*, 2130 Kern St. (1-31-79)

Kern County

Bakersfield, *First Baptist Church*, 1200 Truxtun Ave. (1-29-79)

Los Angeles County

Los Angeles, *Pellissier Building*, 3780 Wilshire Blvd. (2-23-79)

Monterey County

Soledad vicinity, *Los Coches Rancho*, 1 mi. (1.6 km) S of Soledad on U.S. 101 (1-31-79) HABS.

Napa County

Calistoga, *Francis, James H., House*, 1403 Myrtle St. (1-29-79)
Calistoga, *Palmer, Judge Augustus C., House (The Elms)* 1300 Cedar St. (1-29-79)
St. Helena, *St. Helena Public Library*, 1360 Oak Ave. (1-19-79)
Yountville, *Veterans Home of California Chapel*, CA 29 (2-13-79)

Sacramento County

Fair Oaks, *Slocum House,* 7992 California Ave. (1-25-79)

San Bernardino County

Chino, *Moyse Building,* 13150 7th St. (2-2-79)

San Francisco County

San Francisco, *Atherton House,* 1990 California St. (1-9-79)
San Francisco, *House at 1254-56 Montgomery St.* (1-19-79)
San Francisco, *Six-Inch Rifled Gun No. 9,* Baker Beach (2-7-79)

San Joaquin County

Stockton, *Sperry Union Flour Mill,* 445 W. Weber (1-29-79)

San Mateo County

Princeton, *Princeton Hotel,* Capistrano Rd. and Prospect Way (1-23-79)

Santa Cruz County

Santa Cruz, *Branciforte Adobe,* 1351 N. Branciforte Ave. (1-25-79)

Sonoma County

Freestone, *Hinds Hotel,* 306 Bohemian Hwy. (1-29-79)
Santa Rosa, *Wasserman House,* 930 Mendocino Ave. (1-19-79)

COLORADO

Boulder County

Boulder, *Carnegie Library,* 1125 Pine St. (2-16-79)
Boulder, *Woodward-Baird House,* 1733 Canyon Blvd. (2-15-79)

Gunnison County

Marble, *Marble Mill Site,* Park and W. 3rd Sts. (2-7-79)

CONNECTICUT

Hartford County

Hartford, *Sigourney Square District,* Sargeant, Ashley, and May Sts. (1-16-79)

New Haven County

Meriden, *Goffe, Solomon, House,* 677 N. Colony St. (1-16-79)
Woodbridge vicinity, *Darling, Thomas, House and Tavern,* E of Woodbridge at 1907 Litchfield Tpke. (1-17-79)

DELAWARE

Sussex County

Bethany Beach vicinity, *Poplar Thicket Site,* W. of Bethany Beach (12-29-78)

FLORIDA

Broward County

Pompano Beach, *Hillsboro Inlet Light Station,* off I-95 at Hillsboro Inlet (2-16-79)

Collier County

Miles City vicinity, *Hinson Mounds,* E of Miles City (12-29-78)

Leon County

Tallahassee, *Old City Waterworks,* E. Gaines and S. Gadsden Sts. (1-31-79)
Tallahassee vicinity, *Lewis House,* N of Tallahassee at 3117 Okeeheepkee Rd. (2-14-79)

GEORGIA

Bartow County

Cartersville vicinity, *Felton, Rebecca Latimer, House,* N of Cartersville off U.S. 411 (1-25-79)

Bibb County

Macon, *Collins, Andrew J., House,* 1495 2nd St. (1-22-79)

Bryan County

Richmond Hill vicinity, *Kilkenny,* E of Richmond Hill on Kilkenny Rd. (2-14-79)
Richmond Hill vicinity, *Strathy Hall,* SE of Richmond Hill (1-29-79)

Fulton County

Atlanta, *Atlanta Women's Club Complex,* 1150 Peachtree St., NE. (1-19-79)
Atlanta, *Bass Furniture Building,* 142-150 Mitchell St. (1-8-79)
Atlanta, *First Congregational Church,* 105 Courtland St., NE. (1-19-79)
Atlanta, *Garrison Apartments,* 1325-1327 Peachtree St., NE. (1-29-79)
Atlanta, *Kriegshaber, Victor H., House,* 292 Moreland Ave. Northeast (1-8-79)
Atlanta, *Rhodes-Haverty Building,* 134 Peachtree St., NW. (1-19-79)

Jasper County

Monticello, *Hitchcock-Roberts House,* N. Warren St. (2-14-79)

McDuffie County

Thomas vicinity, *Bowdre-Rees-Knox House,* SW of Thomson on Old Wrightsboro Rd. (1-19-79)

Muscogee County

Columbus, *Dismukes, Robert E., Sr., House,* 1617 Summit Dr. (1-8-79)
Columbus, *Old Dawson Place (Gordonido)* 1420 Wynnton Rd. (1-8-79)
Columbus, *Woolfolk, John W., House,* 1615 12th St. (1-22-79)

Putnam County

Eatonton vicinity, *Woodland,* NE of Eatonton on Harmony Rd. (1-29-79)

Union County

Blairsville vicinity, *Walasi-yi Inn,* S of Blairsville on U.S. 129 (1-12-79)

GUAM

Asan, *Asan Invasion Beach,* N edge of Asan (2-14-79)

IDAHO

Blaine County

Carey vicinity, *Fish Creek Dam,* NE of Carey (12-29-78)

Caribou County

Soda Springs, *Hopkins, William, House,* E. Hooper Ave. (1-12-79)

Fremont County

St. Anthony, *Fremont County Courthouse,* 151 W. 1st St. North (1-9-79)

Kootenai County

Spirit Lake, *Spirit Lake Historic District,* Maine St. (2-1-79)

Latah County

Genesee, *Genesee Exchange Bank,* Walnut St. (1-9-79)
Genesee, *Vollmer Building,* Walnut St. (1-12-79)

Lemhi County

Salmon, *Episcopal Church of the Redeemer,* 1st St. North and Fulton St. (1-12-79)

ILLINOIS

Alexander County

Cairo, *Cairo Historic District,* roughly bounded by Park, 33rd, Sycamore, 21st, Cedar, 4th Sts. and the Ohio River (1-26-79)

Cook County

Chicago, *Bach, Emil, House,* 7415 N. Sheridan Rd. (1-23-79)
Chicago, *Hyde Park-Kenwood Historic District,* roughly bounded by 47th and 59th Sts., Cottage Grove and Lake Park Aves. (2-14-79)

DeKalb County

Sycamore, *Brower, Adolphus W., House,* 705 Dekalb Ave. (2-14-79)

DuPage County

Wayne, *Wayne Village Historic District,* irregular pattern along Army Trail Rd. (12-29-78)

Fulton County

Table Grove, Table Grove Community Church, N. Broadway and W. Liberty Sts. (2-9-79)

Jersey County

Nutwood vicinity, *Nutwood Site,* S. of Nutwood (2-9-79)

Lake County

Fox Lake, *Mineola Hotel,* 91 N. Cora St. (1-29-79)

McHenry County

Marengo, *Hibbard, Charles H. House,* 413 W. Grant Hwy. (2-14-79)

McLean County

Hudson, *Hubbard House,* 310 Broadway (2-1-79)
Towanda vicinity, *Duncan Manor,* SW of Towanda off IL 4 (2-9-79)

Pike County

Griggsville, *Griggsville Historic District,* irregular pattern along Corey, Stanford, Quincy and Liberty Sts. (1-17-79)

Randolph County

Red Bud, *Red Bud Historic District,* irregular pattern along Main and Market Sts. (12-29-78)

Scott County

Winchester, *Winchester Historic District,* IL 106 (2-14-79)

Winnebago County

Pecantonica, *Roberts, William H., House,* 523 Main St. (1-29-79)

INDIANA

Howard County

Kokomo vicinity, *Youngman, Frederick, House,* SE of Kokomo at 200 East Rd. (2-9-79)

Marion County

Indianapolis, *Hammond Block (Budnick's Trading Mart)* 301 Massachusetts Ave. (1-9-79)
Indianapolis, *Indiana Theatre,* 134 W. Washington St. (1-29-79) HABS.

Vanderburgh County

McCutchanville, *McJohnston Chapel and Cemetery,* Kansas Rd. and Erskine Lane (1-18-79)

Warrick County

Boonville, *Old Warrick County Jail,* 124 E. Main St. (2-14-79)

Wells County

Bluffton, *Wells County Courthouse,* 100 W. Market St. (1-15-79) HABS.

Whitley County

Columbia City, *Whitley County Courthouse,* Van Buren and Main Sts. (2-16-79)

IOWA

Jackson County

Maquoketa, *Decker House Hotel,* 128 N. Main St. (12-29-78)

Johnson County

Amish vicinity, *Washington Township Center High School,* NE of Amish (12-29-78)

Madison County

St. Charles, *Imes Covered Bridge,* IA 251 (2-9-79)

Marshall County

Marshalltown, *First Church of Christ, Scientist,* 412 W. Main St. (12-29-78)
Marshalltown, *Whitehead, C. H., House,* 108 N. 3rd St. (1-17-79)

Muscatine County

Muscatine, *Welch Apartments,* 224 Iowa Ave. (1-11-79)

Polk County

Des Moines, *Sherman Hill Historic District,* roughly bounded by Woodland Ave., 19th, School and 15th Sts. (1-25-79)

Pottawattamie County

Council Bluffs, *Jefferis, Thomas, House,* 523 6th Ave. (12-29-78)

Poweshiek County

Grinnell, *Ricker, B. J., House,* 1510 Broad St. (12-29-78)

Scott County

Davenport, *Petersen, Max, House,* 1607 W. 12th St. (12-29-78)

Woodbury County

Sioux City, *Midland Packing Company (Swift and Company Packing Plant)* 2001 Leech Ave. (1-29-79)

KENTUCKY

Bell County

Middlesboro, *American Association, Limited, Office Building,* 2215 Cumberland Ave. (12-29-78)

Bourbon County

Paris, *Paris Courthouse Square Historic District,* Courthouse Sq. and environs (1-18-79)
Shawhan vicinity, *David, William, House,* N of Shawhan on Shawhan-Ruddles Mill Pike (2-9-79)

Caldwell County

Princeton, *Champion-Shepherdson Building,* 115 E. Main St. (12-28-78)

Daviess County

St. Joseph, *Mount St. Joseph Academy,* KY 56 (1-9-79)

Franklin County

Frankfort, *Beeches,* off U.S. 421 (2-9-79)

Fulton County

Hickman, *Thomas Chapel C.M.E. Church,* Moscow Ave. (1-18-79)

Grant County

Sherman vicinity, *Sherman Tavern,* S of Sherman on U.S. 25 (2-9-79)

Henry County

Eminence, *Eminence Historic Commercial District,* Broadway, Main and Penn Sts. (2-14-79)

Menifee County

Frenchburg vicinity, *W.S. Webb Memorial Rock Shelter* (1-22-79)

Mercer County

Harrodsburg, *College Street Historic District,* College St. from North Lane to Factory St. (2-9-79)
Harrodsburg vicinity, *Jones, Moses, House,* N of Harrodsburg on Oregon Rd. (2-9-79)

Woodford County

Versailles vicinity, *Moss Side,* SW of Versailles on McCowans Ferry Pike (1-8-79)

LOUISIANA

East Baton Rouge Parish

Baton Rouge vicinity, *Santa Maria Plantation House,* S of Baton Rouge on Perkins Rd. (12-29-78)

Orleans Parish

New Orleans, *Napoleon Street Branch Library,* Napoleon St. (1-12-79)
New Orleans, *Sommerville-Kearney House,* 1401 Delachaise St. (12-29-78)

Tangipahoa Parish

Hammond, *Oaks Hotel (Casa de Fresa),* SW Railroad Ave. (12-29-78)

Washington Parish

Franklinton, *Knight Cabin,* Washington Parish Fairgrounds (1-23-79)
Franklinton, *Sylvest House,* Washington Parish Fairgrounds (1-23-79)

MAINE

Cumberland County

Yarmouth, *Camp Hammond,* 74 Main St. (2-1-79)

Hancock County

Deer Isle vicinity, *Pond Island Archeological District,* W of Deer Isle (1-26-79)

MARYLAND

Baltimore County

Lutherville vicinity, *Western Run-Belfast Road Historic District,* NW of Lutherville (1-23-79)

MASSACHUSETTS

Essex County

Andover, *Shawsheen Village Historic District,* MA 133 (2-9-79)

Middlesex County

Cambridge, *Cornerstone Baptist Church,* 2114 Massachusetts Ave. (2-8-79)
Lowell, *Merrimack-Middle Streets Historic District,* roughly bounded by Merrimack, Middle, Prescott, and Central Sts. (1-16-79)

MICHIGAN

Saginaw County

Saginaw, *Saginaw, Central City Historic Residential District,* roughly bounded by Federal Ave., S. Baum St., Park and Aves. (both sides) (2-1-79)

MINNESOTA

Hennepin County

Minneapolis, *First Congregational Church,* 500 8th Ave. Southeast (1-15-79)

Pine County

Sandstone, *Sandstone Public School Building,* off MN 123 (2-7-79)

MISSISSIPPI

Adams County

Natchez, *Eola Hotel,* Main and Pearl Sts. (1-11-79)
Natchez, *Neibert-Fisk House,* 310 N. Wall St. (1-22-79)
Natchez, *Winchester House,* 816 Main St. (1-31-79)
Natchez vicinity, *Elgin,* S of Natchez off U.S. 61 (1-19-79)

Attala County

Sallis vicinity, *Coffey, Col. J. K., House,* E of Sallis off MS 12 (2-8-79)

Claiborne County

Port Gibson vicinity, *Windsor Site,* SW of Port Gibson (2-2-79)

Harrison County

Biloxi, *Reed, Pleasant, House,* 928 Elmer St. (1-11-79)

Hinds County

Jackson, *Warren-Guild-Simmons House,* 734 Fairview St. (1-11-79)

Raymond vicinity, *Dupree House*, W of Raymond on Dupree Rd. (1-31-79)

Jefferson Davis County

Prentiss vicinity, *1907 House (Magee Plantation)* E of Prentiss on Ft. Stephens Rd. (2-14-79)

Lauderdale County

Meridian, *Meridian Baptist Seminary*, 16th St. and 31st Ave. (1-8-79)

Marshall County

Red Banks vicinity, *Summer Trees*, NE of Red Banks on Mayhome Rd. (1-19-79)

Noxubee County

Macon, *Old Noxubee County Jail*, 209 Monroe St. (1-8-79)

Quitman County

Denton vicinity, *Denton Site*, NW of Denton (2-2-79)

Warren County

Vicksburg, *Bob House*, 1503 Harrison St. (1-8-79)
Vicksburg, *Green, Duff, House*, 806 Locust St. (1-11-79) HABS.

MISSOURI

Boone County

Columbia, *Greenwood*, 3005 Mexico Gravel Rd. (1-15-79) HABS.
Columbia, *Missouri, Kansas and Texas Railroad Depot*, 402 E. Broadway (1-29-79)

Iron County

Pilot Knob, *Immanuel Evangelical Lutheran Church*, Pine and Zeigler Sts. (1-22-79)

Jackson County

Independence, *Missouri Pacific Depot*, 600 S. Grand (1-29-79)
Kansas City, *Gumbel Building*, 801 Walnut St. (1-25-79)
Kansas City, *Mutual Musician's Foundation Building*, 1823 Highland Ave. (2-7-79)

Platte County

Platte City, *Platte County Courthouse*, 3rd and Main Sts. (1-17-79)

St. Louis County

Florissant, *Bockrath-Wiese House*, St. Ferdinand Park (2-2-79)
St. Louis, *Washington University Hilltop Campus Historic District*, roughly bounded by Big Bend, Forsyth, Skinker, and Millbrook Blvds. (1-12-79)
St. Louis vicinity, *Pappas, Theodore, A., House*, 865 Masonridge Rd. (2-14-79)

Wright County

Mountain Grove vicinity, *Administration Building, Missouri State Fruit Experiment Station*, N of Mountain Grove off MO 60 (1-15-79)

MONTANA

Cascade County

Sun River vicinity, *Adam's, J. C., Stone Barn*, NE of Sun River off U.S. 81 (1-29-79)

Jefferson County

Boulder vicinity, *Boulder Hot Springs Hotel*, SE of Boulder on MT 281 (1-29-79)

Lewis and Clark County

Helena, *Hauser Mansion*, 720 Madison Ave. (2-9-79)

NEBRASKA

Adams County

Hastings, *Brach, William, House*, 823 N. Lincoln Ave. (2-1-79)

Douglas County

Omaha, *Anheuser-Busch Beer Depot*, 1207-1215 Jones St. (2-1-79)
Omaha, *St. Cecilia's Cathedral*, 701 N. 40th St. (1-25-79)
Omaha, *U.S.S. Hazard and U.S.S. Marlin*, 2500 N. 24th St. (1-1-79)

Hitchcock County

Culbertson vicinity, *St. Paul's Methodist Protestant Church*, S of Culbertson on NE 17 (1-25-79)

Keith County

Keystone, *Keystone Community Church*, McGinley St. (1-25-79)

Nemaha County

Auburn vicinity, *St. John's Lutheran Church Complex*, SW of Auburn (1-25-79)

Saunders County

Ashland, *St. Stephen's Episcopal Church*, 15th and Adams Sts. (1-25-79)

Washington County

Blair, *Congressional Church of Blair*, 16th and Colfax Sts. (2-1-79)

NEVADA

Carson City (independent city)

Carson City Post Office, 401 N. Carson St. (2-9-79) HABS.
Ferris, G. W. G., House, 311 W. 3rd St. (2-9-79) HABS.

NEW HAMPSHIRE

Sullivan County

Claremont, *Monadnock Mills*, Broad, Water, Crescent Sts. and Mill Rd. (2-15-79)

NEW JERSEY

Atlantic County

Port Republic, *Blake, Amanda, Store*, 104 Main St. (1-25-79)

Bergen County

Tenafly, *Tenafly Station*, off Hillside Ave. (1-25-79) HABS.

Essex County

Montclair, *Van Reyper-Bond House*, 848 Valley Rd. (1-22-79)

Gloucester County

Richwood, *Richwood Methodist Church*, Elmer Rd. (1-19-79)

Hudson County

Jersey City, *Hamilton Park Historic District*, roughly bounded by Brunswick, Grove, 6th and 9th Sts. (1-25-79)

NEW MEXICO

Bernalillo County

Albuquerque, *First National Bank Building*, 217-233 Central Ave., NW. (2-2-79)
Albuquerque, *O'Reilly, J. H., House*, 220 9th St., NW. (1-29-79)

Otero County

Tularosa, *Tularosa Original Townsite District*, U.S. 54/70 (2-14-79)

San Miguel County

Rociada vicinity, *Pendaries Grist Mill*, 1 mi. (1.6 km) E of Rociada off NM 105 (2-2-79)

Taos County

Tres Piedras, *Tres Piedras Railroad Water Tower*, off U.S. 285 (2-2-79)

NEW YORK

Albany County

Albany, *Ten Broeck Historic District*, irregular pattern along Ten Broeck St. from Clinton Ave. to Livingston Ave. (1-25-79)

Nassau County

Oyster Bay vicinity, *Planting Fields Arboretum*, W of Oyster Bay on Planting Fields Rd. (1-23-79)

Oneida County

Oriskany Falls, *First Congregational Free Church*, 177 N. Main St. (1-19-79)

Tompkins County

Ithaca vicinity, *Enfield Falls Mill and Miller's House*, SW of Ithaca in Robert H. Treman State Park (2-5-79)

NORTH CAROLINA

Alamance County

Glencoe, *Glencoe Mill Village Historic District*, off NC 62 at Haw River (2-16-79)

Beaufort County

Washington, *Washington Historic District*, roughly bounded by Jacks Creek, Pamlico River, Hackney, 3rd, Market, 5th, Harvey, and 2nd Sts. (2-9-79)

Dare County

Nags Head vicinity, *Bodie Island Lifesaving/Coast Guard Station*, S of Nags Head on NC 12 (2-9-79)

Davidson County

Jackson Hill vicinity, *Reid Farm*, W of Jackson Hill on SR 2537 (1-25-79)

Durham County

Durham, *Dillard-Gamble Houses*, 1311 and 1307 N. Mangum St. (1-19-79)

Halifax County

Hollister vicinity, *White Rock Plantation, N of Hollister on NC 1315* (2-14-79)

Haywood County

Waynesville, *Shelton House*, 307 Shelton St. (1-31-79)

Orange County

Mebane vicinity, *Paisley-Rice Log House*, N of Mebane (1-22-79)

Warren County

Inez vicinity, *Lake O'Woods (Davis House)* S of Inez of SR 1512 (1-19-79)

NORTH DAKOTA

Burleigh County

Bismarck vicinity, *Double Ditch Earth Lodge Village Site,* 14 mi. NW of Bismarck on ND 1804 (1-29-79)

OHIO

Cuyahoga County

Bay Village, *Huntington, John, Pumping Tower,* 28600 Lake Rd. (2-2-79)

Delaware County

Galena vicinity, *Keeler, Diadatus, House, SE of Galena at 4567 Red Bank Rd. (2-2-79)*

Fairfield County

Lancaster, *Lancaster West Main Street Historic District,* W. Main St. from Columbus to Broad St. (2-2-79)

Guernsey County

Cambridge, *McCracken-McFarland House,* 216 N. 8th St. (2-16-79)

Hamilton County

Cincinnati, *Beech Avenue Houses,* 1120 and 1128 Beech Ave. (2-16-79)

Jackson County

Wellston, *Morgan Mansion,* Broadway and Pennsylvania Aves. (2-16-79)

Muskingum County

Zanesville, *Kearns, George and Edward, Houses,* 306 and 320 Luck Ave. (2-2-79)

Ross County

Hopetown, *Wesley Chapel,* off U.S. 23 (2-2-79)

Seneca County

Tiffin, *HEIDELBERT COLLEGE HISTORIC MULTIPLE RESOURCE AREA.* This area includes: *Aigler Alumni Building,* 315 E. Market St.; *College Hall,* 310 E. Market St.; *Development House,* 67 Greenfield St.; *Fine Arts Building,* 338 E. Perry St.; *Founders Hall,* 318 E. Perry St.; *France Hall,* 119 Greenfield St.; *German House,* 285 E. Perry St.; *Great Hall,* 44 Greenfield St.; *Laird Hall,* 70 Greenfield St.; *Octogan, The,* 297 E. Perry St.; *Pfleiderer, Arthur B., Center for Religion and Humanities,* 28 Greenfield St.; and *Williard Hall,* 116 Greenfield St. (2-12-79)

Van Wert County

Van Wert, *Brumback Library,* 215 W. Main St. (1-29-79)

OKLAHOMA

Grady County

Bradley vicinity, *Jewett Site,* S of Bradley (2-14-79)

Oklahoma County

Luther vicinity, *Booher Site,* S of Luther (2-14-79)
Midwest City vicinity, *Quillin Site,* N of Midwest City (2-14-79)
Spencer vicinity, *Nagle Site,* N of Spencer (2-14-79)

Tulsa County

Tulsa, *Clinton-Hardy House,* 1322 S. Guthrie (1-23-79)
Tulsa, *Cosden Building,* 409 S. Boston Ave. (2-1-79)
Tulsa, *McFarlin, Robert M., House,* 1610 S. Carson (1-25-79)

OREGON

Harney County

Burns vicinity, *P Ranch,* S of Burns (1-29-79)
Burns vicinity, *Sod House Ranch,* S of Burns (1-29-79)

Union County

LaGrande, *U.S. Post Office and Federal Building,* 1010 Adams St. (1-25-79)

PENNSYLVANIA

Centre County

State College, *Ag Hill Complex,* Pennsylvania State University campus (1-22-79)

Lancaster County

Ephrata, *Connell Manston,* 249 W. Main St. (1-19-79)

SOUTH CAROLINA

Greenville County

Greenville, *Reedy River Industrial District,* Reedy River betwen River St. and Camperdown Way (2-14-79)

Richland County

Columbia, *Columbia Canal,* E bank of the Broad and Congaree Rivers from the Diversion Dam to the Southern RR Bridge (1-15-79)

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Berdahl-Rolvaag House,* 1009 W. 33rd St. (1-23-79)

TENNESSEE

Davidson County

Nashville, *Miles House,* 631 Woodland St. (1-8-79)

Hamilton County

Chattanooga, *Shiloh Baptist Chruch (First Baptist Church)* 506 E. 8th St. (1-19-79)

Haywood County

Brownsville, *Temple Adas Israel,* Washington and College Sts. (1-19-79)

Montgomery County

St. Bethlehem vicinity, *Cloverlands,* N of St. Bethlehem on Clarksville-Trenton Rd. (1-8-79)

Shelby County

Memphis, *St. Mary's Cathedral, Chapel, and Diocesan House,* 700 Poplar Ave. (Cathedral) 714 Poplar Ave. (Chapel) and 692 Poplar Ave. (Diocesan House) (1-19-79)

Sumner County

Castalian Springs vicinity, *Locust Grove,* N of Castalian Springs (1-8-79)

Wilson County

Lebanon, *Buchanan, I. W. P., House,* 428 W. Main St. (1-8-79)

TEXAS

Austin County

Wesley vicinity, *Wesley Brethren Church,* S of Wesley (1-18-79)

Bexar County

San Antonio, *Southern Pacific Depot Historic District,* roughly bounded by Crockett, Chestnut, Galveston and Cherry Sts. (2-1-79)

Bosque County

Meridian, *Bosque County Jail,* 203 E. Morgan (1-29-79)

Dallas County

Dallas, *South Boulevard-Park Row Historic District,* South Boulevard and Park Row from Central Expwy to Oakland Ave. (2-5-79)

El Paso County

El Paso, *Hotel Paso del Norte,* 115 S. El Paso St. (1-18-79)

Galveston County

Galveston, *First Presbyterian Church,* 1903 Church St. (1-29-79) HABS.

Matagorda County

Blessing, *Hotel Blessing,* Ave. B. (2-1-79)

McLennan County

Waco, *Rotan-Dossett House,* 1503 Columbus Ave. (1-29-79)

Mitchell County

Colorado City, *Scott-Majors House,* 425 Chestnut St. (2-5-79)

Travis County

Austin, *Schneider, J. P., Store,* 401 W. 2nd St. (1-29-79)

Wilbarger County

Odell vicinity, *Doan's Adobe House,* E of Odell off U.S. 283 (2-8-79)

UTAH

Summit County

Park City, *St. Mary of the Assumption Church and School,* 121 Park Ave. (1-25-79)

Wasatch County

Heber City, *Wherritt, Austin, House,* 315 E. Center (1-25-79)

VERMONT

Chittenden County

Winooski, *Winooski Falls Mill District,* N. bank of Winooski River to Center and Canal Sts., S bank to bartlet St. (2-9-79)

Essex County

Island Pond, *Island Pond Historic District,* jct. of VT 105 and VT 114 (1-31-79)

VIRGINIA

Albemarle County

Millington vicinity, *Midway,* SE of Millington off VA 678 (2-2-79)

Bland County

Ceres vicinity, *Sharon Lutheran Church and Cemetery, W of Ceres on VA 42 (2-1-79)*

Goochland County

Goochland vicinity, *Elk Hill,* W of Goochland off VA 6 (2-2-79)

Halifax County

South Boston vicinity, *Glennmary,* SW of South Boston on U.S. 58 (2-1-79)

Hanover County

Mechanicsville vicinity, *Clover Lea,* E of Mechanicsville off VA 629 (2-1-79)

Middlesex County

Wilton vicinity, *Wilton,* S of Wilton on VA 3 (2-1-79)

Orange County

Old Somerset, *Somerset Christian Church,* VA 20 (2-1-79)

Richmond (independent city)

Reveille, 4200 Cary Street Rd. (2-1-79)

Rockingham County

Elkton, *Miller-Kite House,* 302 Rockingham St. (2-1-79)

Southampton County

Courtland vicinity, Beechwood, NE of Courtland on VA 643 (2-1-79) HABS.

Wythe County

Speedwell vicinity, *Zion Evangelical Lutheran Church Cemetery,* NW of Speedwell (2-1-79)

WASHINGTON

Clark County

Vancouver, *Evergreen Hotel,* 500 Main St. (1-19-79)

King County

Seattle, *U.S. Immigrant Station and Assay Office,* 815 Airport Way South (1-25-79)

Pierce County

Dupont, *Sequalitchew Archeological Site,* N of Dupont (2-14-79)
Fort Lewis, *Red Shield Inn,* Main St. (2-5-79)

WISCONSIN

Dodge County

Waupun vicinity, *Horicon Site,* E of Waupun (1-31-79)

Green County

Monroe, *White, F. F., Block,* 1514-1524 11th St. (1-31-79)

Juneau County

Necedah, *Weston-Babcock House,* Main St., (1-29-79)

Waukesha County

Brookfield, *Dousman Inn (Dunkel Inn)* 15679 Blue Mound Rd. (1-15-79)

The following properties were omitted from the February 6, 1979, FEDERAL REGISTER.

VIRGINIA

Roanoke County

Salem vicinity, *Belle Aire,* U.S. 11 (4-30-76)

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

NEW YORK

Chautauqua County

Fredonia, *Fredonia Commons Historic District,* Main, Temple, Church, Day, and Center Sts. (10-19-78) (previously listed in AZ)

Jefferson County

Fishers Landing vicinity, *Rock Island Light Station,* N of Fishers Landing on Rock Island (11-14-78) (previously listed in AZ)

Ontario County

Phelps, *St. John's Episcopal Church,* Church St. (11-7-78) (previously listed in AZ)

Queens County

Astoria, *Paramount Studios Complex,* 35th, 36th, and 37th Sts. (11-14-78) (previously listed in AZ)

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places. This action does not modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

TENNESSEE

Clairborne County

Tazewell, *Parkey House,* Main St. (demolished)

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requestion determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ALASKA

Fairbanks Division

Fairbanks vicinity, *Cripple Creek Archeological Site.*

CALIFORNIA

Napa County

Napa, *Holmes Moving and Storage Building,* 920-930 3rd St.
Napa vicinity, *Soscol House, Site,* S of Napa (63.3)

San Bernadino County

Oro Grande vicinity, *Culbertson's Ranch Site,* NW of Oro Grande (63.3)

San Francisco County

San Francisco, *3397-3399 Sacramento Street, 420 Walnut Street, Lot 15*

Santa Barbara County

Los Padros National Forest, *4-SBa-509*
Santa Barbara Channel, *Cojo Bay Archeological District* (63.3)

Tuolumne County

Yosemite National Park, *Dead Giant Tunnel Tree*
Yosemite National Park, *Parsons Memorial Lodge*
Yosemite National Park, *Soda Springs Cabin*

COLORADO

Ouray County

Uncompahgre Ute Reservation, *Old Dallas Historic Archeological District* (63.3)

CONNECTICUT

Fairfield County

Ridgefield, *Hugh Cain Fulling Mill,* Rte. 7 (63.3)

Hartford County

Burlington, *Draw House,* Stafford and Monce Rds.
Burlington, *Hart Place,* RFD 2, Stafford Rd.
Burlington, *Nybakken House,* Stafford and Monce Rds.

Farmington, *Unionville Tunxie Hose Firehouse*, Farmington Ave. and Lovely St.

GEORGIA

Baldwin County

Milledgeville vicinity, *Vinson-Ashfield House*, 3 mi. E of Milledgeville on Sandersville Rd.

Toombs County

Lyons, *Twenty Columns*, Libert and Johnson Sts. (63.3)
Vidalia vicinity, *Mose Coleman Home*, E. of Vidalia on U.S. 280 (63.3)

HAWAII

Honolulu County

Honolulu, *Advertiser Building*, 605 Kapiolani Blvd. (63.3)
Honolulu, *Alexander Young Building*, 1000 block of Bishop St. (63.3)
Honolulu, *Brass Foundry*, 556B Kamani St. (63.3)
Honolulu, *Church of the Crossroads*, 1212 University Ave. (63.3)
Honolulu, *Oahu Ice and Cold Storage Company*, 721 Kapiolani Blvd. (63.3)
Honolulu, *OR&L Office and Document Storage Building and OR&L Station*, 333, 355, and 357 N. King St. (63.3)
Honolulu, *Otani Block*, N. King St. between Iwilei Rd. and Awa St. (63.3)
Honolulu, *Portland Building*, Union Mall and Hotel St. (63.3)
Honolulu, *S. H. Kress Company*, 917 Fort St. (63.3)

IDAHO

Cassia County

Rock Creek vicinity, *Bear Hollow Archeological District* (also in Twin Falls County) (63.3)

Lewis County

Kamiah, *East Kamiah Village Archeological Site* (63.3)

ILLINOIS

Cook County

Oak Park, *Avenue/Lake Building*, 120–137 N. Oak Park Ave. (63.3)

St. Clair County

New Athens vicinity, *Kingfish Site*

INDIANA

Switzerland County

Posey Township, *Prehistoric Archaic Site 12SW89*
Posey Township, *Prehistoric Archaic Site 12SW99*
Posey Township, *Prehistoric Archaic Site 12SW100*

IOWA

Linn County

Marion, *Grant House*, 3400 Adel Rd., SE (63.3)

KANSAS

Douglas County

Clinton Lake, *Barber School*
Clinton Lake, *Deister Farmstead*

KENTUCKY

Montgomery County

Mount Sterling, *Archeological Sites 15Mn49, 15Mn51, 15Mn54*

LOUISIANA

Placequimes Parish

English Turn, *Fort St. Leon (16PL35)*

MARYLAND

Baltimore (Independent City)

Carroll Mansion Historic District, E. Lombard St., Front St., and Albermarle St.,
City and Suburban Railway Powerhouse, Pier 4, Pratt St.
Little Italy Historic District, President St., Eastern Ave., Pratt, Spring, and Eden Sts.
Market Place Historic District, Baltimore St., W. Falls, Ave., Pratt St., Market Pl., and Frederick St.
Nine North Front Street, 9 N. Front St.
Scarlett, William G., Seed Company, SE. corner of Pratt St. and E. Falls Ave.

MASSACHUSETTS

Hampden County

Holyoke, *Route 116 Holyoke-South Hadley Bridge*, MA 116

MICHIGAN

Leelanau County

Northport vicinity, *Grand Traverse Light Station*, SR 629 at Lighthouse Point (63.3)

Presque Isle County

Presque Isle, *Presque Isle Light Station*, Grand Lake Rd. (63.3)

MISSISSIPPI

Marshall County

Holly Springs, *Post Office Building*, College Ave., Memphis St.

MISSOURI

Gasconade County

Gasconade Harbor, *William Black* (dredge)

Greene County

Springfield, *23GR183*

MONTANA

Lincoln County

Kootenai River vicinity, *Libby-Jennings Archeological District*

Powder River County

Ashland vicinity, *Mud Turtle Spring Site (24PR628)* (63.3)

Ravalli County

Sula vicinity, *Indian Trees Campground (24RA61)* (63.3)

NEW JERSEY

Camden County

Camden, *Archeological Remains in the Cooper House Area (63.3)*
Camden, *Dudley Mansion*, Dudley Grange Park (63.3)

Mercer County

West Windsor, *28ME91*, (63.3)

Monmouth County

Little Silver, *Little Silver Passenger Railroad Station*, Oceanport Ave. (63.3)
Matawan, *Matawan Passenger Railroad Station and Freight House*, S of RR. tracks between Main St. and Atlantic Ave. (63.3)

NEW YORK

Chemung County

Elmira, *Old Main Post Office*, 200 Church St.

Columbia County

Hudson, *6 Power Avenue*
Hudson, *7 Power Avenue*
Hudson, *8 Power Avenue*
Hudson, *10 Power Avenue*
Hudson, *11 Power Avenue*
Hudson, *12 Power Avenue*
Hudson, *13 Power Avenue*
Hudson, *16 Power Avenue*
Hudson, *20 Power Avenue*

Steuben County

Hornell, *Merrill Silk Mill*, Canistee and Pleasant Sts.

NORTH CAROLINA

Chatham County

Haw River vicinity, *31CH28*
Haw River vicinity, *31CH29*

OHIO

Franklin County

Columbus, *Near North Side Historic District*

Lucas County

Toledo, *Keasey Flats*, 1341–1343 Dorr St.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Arrott Building*, 4th and Wood Sts. (63.3)

RHODE ISLAND

Kent County

Coventry, *Isaac Bowen House*, Maple Valley Rd. (63.3)
Coventry, *Wilcox Site (9)* (63.3)
Coventry, *William Waterman House*, RI 102 (63.3)

Providence County

Seituate, *Amos Cooke House*, Chopmist Hill Rd. (63.3)

TENNESSEE

Blount County

Tellico River vicinity, *Tellico Archeological District*, (also in Loudon and Monroe counties)

TEXAS

McCulloch County

Bluff Creek vicinity, *41MK27*, (63.3)
Corn Creek vicinity, 41MK9, (63.3)

TRUST TERRITORY OF THE PACIFIC

Palau District

Babelthuap vicinity, *Babeldaub Airport Archeological Sites*

VIRGINIA

Loudon County

Lowes Island, *44LD3* (63.3)

WEST VIRGINIA

Jackson County

Mill Creek vicinity, *Staats Mill Bridge* (63.3)

* * * * *

[FR Doc. 79-6446 Filed 3-5-79; 8:45 am]

[4310-03-M]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before February 23, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by March 16, 1979.

WILLIAM J. MURTAGH,
Keeper of the National Register.

DELAWARE

New Castle County

Wilmington, *Brown, Dr. John A., House,* 4 7th Ave.

IOWA

Poweshiek County

Grinnell, *Goodnow Hall,* Grinnell College campus
Grinnell, *Mears Hall,* Grinnell College campus

Scott County

Davenport, *Burtis-Kimball House Hotel,* 210 E. 4th St.

Mississippi

Adams County

Natchez, *Prentiss Club,* Pearl and Jefferson Sts.
Natchez, *Texada Tavern,* 222 S. Wall St.
Natchez, *Tillman House,* 506 High St.
Washington vicinity, *Brandon Hall,* NE of Washington on U.S. 61

Tallahatchie County

Charleston vicinity, *North Fork Tillatoba-Hunter Creek Watershed Archeological District,* N of Charleston

Warren County

Vicksburg, *Main Street Historic District,* 1st East, Adams, Main and Openwoods Sts.

MISSOURI

Boone County

Columbia, *Missouri Theater,* 203 S. 9th St.

Clay County

Kansas City, *Antioch Christian Church,* 4805 NE. Antioch Rd.

Jackson County

Indpendence, *Trinity Episcopal Church,* 409 N. Liberty St.

Ralls County

Center vicinity, *St. Paul Catholic Church,* W of Center off SR EE

Stone County

Reeds Spring vicinity, *Morrill, Levi, Post Office and Homestead,* SE of Reeds Spring off MO 148

OHIO

Allen County

Lima, *Hughes-Russell House,* 649 W. Market St.

Delaware County

Delaware vicinity, *Greenwood Farm,* S of Delaware off U.S. 42

Fairfield County

Lancaster, *St. Peter's Evangelical Church,* Broad and Mulberry Sts.

Fayette County

Washington Courthouse, *Kelley, Barney, House,* 321 E. East St.

Franklin County

Columbus, *Hanna House,* 1021 E. Broad St.
Columbus, *Holy Cross Church, Rectory, and School,* 212 S. 5th St.

Licking County

Newark, *Williams, Elias, House (Bolton House)* 565 Granville St.

Montgomery County

Kettering, *Trailsend (James M. Cox Mansion)* 3500 Governors Trail

Stark County

Canton, *First Mehodist Episcopal Church,* 120 Cleveland Ave., SW.
Massillon, *St. Mary's Catholic Church,* 206 Cherry Rd., NE.

Warren County

Lebanon vicinity, *Robinson, Edmund, House,* N of Lebanon at 3208 OH 48

Wood County

Bowling Green vicinity, *Wood County Home and Infirmary,* N of Bowling Green at 13660 County Home Rd.

OKLAHOMA

Tulsa County

Tulsa, *Tulsa Union Depot,* 5 S. Boston

TENNESSEE

Shelby County

Memphis, *Love, George Collins, House,* 619 N. 7th St.

TEXAS

Harris County

Houston, *Paul Building (Republic Building)* 1018 Preston Ave.

Kaufman County

Terrell, *Cartwright, Matthew, House,* 505 Griffith Ave.

[FR Doc. 79-6447 Filed 3-5-79; 8:45 am]

[4310-70-M]

National Park Service

ASSESSMENT OF ALTERNATIVES ON REQUEST TO WITHDRAW WATER FROM CAPE COD NATIONAL SEASHORE, MASSACHUSETTS

Availability—Assessment of Alternatives

Notice is hereby given that the National Park Service has prepared an assessment of alternatives on the request of the Town of Provincetown, Massachusetts, to withdraw 0.75 million gallons of water per day from within Cape Cod National Seashore between April 1 and November 30, 1979.

The assessment document is available from or may be inspected at the Superintendent's Office, Cape Cod National Seashore, South Wellfleet, MA 02663 or the North Atlantic Regional Office, 15 State Street, Boston, MA 02109.

The assessment presents the two courses of action available to the National Park Service; namely, either to grant or to deny Provincetown's request to withdraw up to 0.75 million gallons of water a day from a test well located within Cape Cod National Seashore in the Town of Truro, Massachusetts. Both of the alternatives are evaluated in terms of the various impacts each would create upon the resource values of the national seashore and its immediate environs.

Written statements regarding the assessment of alternatives are invited and should be addressed to the Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663.

The official record for writing comments will close on April 7, 1979.

Dated: March 1, 1979.

DANIEL J. TOBIN, Jr.,
Associate Director,
Management and Operations.

[FR Doc. 79-6695 Filed 3-5-79; 8:45 am]

[4310-70-M]

National Park Service

[Order No. 77, Amendment No. 8]

REGIONAL DIRECTORS

Delegation of Authority

Order No. 77, approved February 27, 1973, and published in the FEDERAL REGISTER of March 22, 1973 (39 FR 7478), as amended, set forth in Section 1 the exceptions on delegations of authority, and in Section 2 certain limitations on redelegation of authority.

Section 1, paragraph (7) is hereby amended to read as follows:

Section 1, Delegation. * * * (7) Authority to substantively modify approved standard language of concession contracts and other concession related contracting documents. Section 2 is hereby amended by adding paragraph (6) as follows:

Section 2, Redelegation. * * * (6)(a) Authority to execute, amend, approve assignment of, or terminate concession contracts may not be redelegated.

(6)(b) Authority to execute, amend, approve assignment of sales, or terminate concession permits of five (5) years duration or more, or when anticipated annual gross receipts will amount to $100,000 or more, may not be redelegated.

(6)(c) Authority to execute concession contracts or concession permits of five (5) years duration or longer, or when anticipated annual gross receipts will amount to $100,000 or more, shall be exercised only after the proposed contracts and/or permits are submitted to the Director for transmittal to the Committee on Interior and Insular Affairs sixty (60 days prior to award.

(6)(d) Authority to execute, amend, approve assignments or sales, or terminate concession permits of under five (5) years duration, or when anticipated annual gross receipts will amount to less than $100,000, may be redelegated only to Superintendents.

This Amendment becomes effective March 6, 1979.

DANIEL J. TOBIN, Jr.,
Acting Director.

MARCH 2, 1979.

[FR Doc. 79-6789 Filed 3-5-79; 8:45 am]

[4310-84-M]

Office of the Secretary

ALASKA REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy
(Discretionary Secretarial Appointment)

Committee: Alaska Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Alaska region.

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 17.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing process, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one of more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-use Planning
e. Economics
f. Outdoor Recreation
g. Terrestrial-Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's, a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Progam for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP). The IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the focus of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE: This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of the respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank Gregg, Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone: A/C 202-343-6264.

We encourage the identification of female and minority candidates.

FRANK GREGG,
Director, Bureau of
Land Management.

Approved: March 1, 1979.

GUY R. MARTIN,
Assistant Secretary
of the Interior.

[FR Doc. 79-6609 Filed 3-5-79; 8:45 am]

[4310-84-M]

GULF OF MEXICO REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy
(Discretionary Secretarial Appointment)

Committee: Gulf of Mexico Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Gulf of Mexico (including the States of Florida, Ala-

bama, Mississipi, Louisiana, and Texas).

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 15.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing proess, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-Use Planning
e. Economics
f. Outdoor Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's, a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP). The IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the force of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE: This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of the respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank Gregg, Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone: A/C 202-343-6264.

We encourage the identification of female and minority candidates.

FRANK GREGG,
Director, Bureau of Land Management.

Approved: March 1, 1979.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 79-6611 Filed 3-5-79; 8:45 am]

[4310-84-M]

MID-ATLANTIC REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy (Discretionary Secretarial Appointment)

Committee: Mid-Atlantic Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Mid-Atlantic region (including the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia).

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 16.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing process, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-Use Planning
e. Economics
f. Outdoor Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's, a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing. Transportation and Related Facilities (IPP). the IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the focus of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE: This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of the respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank

Gregg, Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone: A/C 202 343-6264.

We encourage the identification of female and minority candidates.

FRANK GREGG,
Director, Bureau of Land Management.

Approved: March 1, 1979.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 79-6610 Filed 3-5-79; 8:45 am]

[4310-84-M]

NORTH ATLANTIC REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy (Discretionary Secretarial Appointment)

Committee: North Atlantic Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the North Atlantic region (including the States of Maine, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, and New Jersey).

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 17.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing process, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-Use planning
e. Economics
f. Outdoor Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP). The IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the focus of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE: This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of their respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank Gregg, Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone: A/C 202-343-6264.

We encourage the identification of female and minority candidates.

Approved: March 1, 1979.

FRANK GREGG,
Director, Bureau of Land Management.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 79-6607 Filed 3-5-79; 8:45 am]

[4310-84-M]

PACIFIC STATES REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy (Discretionary Secretarial Appointment)

Committee: Pacific States Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Pacific region (including California, Oregon, and Washington).

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 13.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing process, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-Use Planning
e. Economics
f. Outdoor Recreation
g. Terrestrial Wildlife
h. Fisheries Biology

i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's, a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP). The IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the focus of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE: This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of the respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank Gregg, Director, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. Telephone: A/C 202-343-6264.

We encourage the identification of female and minority candidates.

FRANK GREGG,
Director, Bureau of Land Management.

Approved: March 1, 1979.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 79-6608 Filed 3-5-79; 8:45 am]

[4310-84-M]

SCIENTIFIC COMMITTEE OF THE OUTER CONTINENTAL SHELF ADVISORY BOARD

Notification of Advisory Committee Vacancy (Discretionary Secretarial Appointment)

Committee: Scientific Committee of the Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Assistant Secretary, Land and Water Resources, on the feasibility, appropriateness, and scientific value of the Bureau of Land Management's OCS studies program. The committee may recommend changes in both scope and direction of the program and applicability of the data being produced.

Number of Vacancies: 10–15.

Date of Vacancy:

Total Number of Committee Members: 10–15.

Total Number of Discretionary Secretarial Appointments: 10–15.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees to the committee will be selected based on scientific background and reputation within particular fields of expertise relevant to the OCS studies program. Examples of disciplines relevant to the program are: fisheries biology, seabird and marine mammal ecology, marine benthic ecology, toxicology, marine chemistry, marine geology, geophysics, physical oceanography, meteorology, and socioeconomics.

Remarks: The Outer Continental Shelf (OCS) environmental studies program is a major undertaking by the Bureau of Land Management (BLM) to collect and analyze environmental and socioeconomic information that will be useful to decisionmaking in the Nation's OCS oil and gas leasing program. Members of the Scientific Committee will work closely with the Director of the BLM and with his staff which includes the environmental studies personnel. Membership will represent six OCS regions: North Atlantic, South Atlantic, Mid-Atlantic, Gulf of Mexico, Pacific, and Alaska.

NOTE: Letters of recommendation should be accompanied by resumes and should be directed to Mr. Guy Martin, Assistant Secretary, Land and Water Resources, 18th & C Streets, N.W., Washington, D.C. 20240. The final date for receipt of applications is April 1, 1979. For additional information with regard to this committee vacancy, contact Ms. Sandy Seim, Office of the Assistant Secretary, Land and Water Resources, Room 4350, Department of the Interior Washington, D.C. 20240. Telephone: A/C 202 343-7657.

We encourage the identification of female and minority candidates.

GUY R. MARTIN,
Assistant Secretary, Land and Water Resources.

MARCH 1, 1979.

[FR Doc. 79-6605 Filed 3-5-79; 8:45 am]

[4310-84-M]

SOUTH ATLANTIC REGIONAL TECHNICAL WORKING GROUP COMMITTEE

Notification of Advisory Committee Vacancy (Discretionary Secretarial Appointment)

Committee: South Atlantic Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the South Atlantic region (including the States of North Carolina, South Carolina, Georgia, and Florida).

Specifically, the Committee will provide recommendations and information regarding pre-lease sale activities, including tract selection, environmental statement preparation, stipulation development, regional environmental studies, and transportation management plans.

Number of Vacancies: 14.

Date of Vacancy: March 6, 1979.

Total Number of Discretionary Secretarial Appointments: 4.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should have a familiarity with the OCS oil and gas program, including the leasing process, the OCS Lands Act, as amended, the Coastal Zone Management Act, as amended, and should be capable of dealing with specific technical problems of production and transportation of offshore oil and gas. Applicants should also have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Transportation Planning
d. Land-Use Planning
e. Economics
f. Outdoor Recreation
g. Terrestrial Wildlife
h. Fisheries Biology

i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Groups (RTWG's) represent one of three types of committees of the OCS Advisory Board which has been restructured under a new charter. The restructured Board includes, in addition to the RTWG's, a national Scientific Committee, and a national Policy Committee. The RTWG's are being established in each of the six OCS leasing regions and are the forum which will be used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP). The IPP is a new program of technical level coordination and planning to be administered by the Bureau of Land Management. The RTWG's will be the focus of the IPP and will be comprised of representatives from the States within the leasing region; regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; representatives from the petroleum industry, and other private and special interests.

NOTE.—This vacancy announcement is for recruitment of private sector members only. State and Federal agency members will be nominated by the Governors of the respective States and affected Federal agency heads.

Letters of recommendation should be accompanied by resumes and should be directed to Mr. Frank Gregg, Director, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. The final date for receipt of applications will be April 1, 1979. For additional information with regard to this committee vacancy, contact Mr. Bert Rodgers, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone A/C 202-343-6264.

We encourage the identification of female and minority candidates.

FRANK GREGG,
Director, Bureau of Land Management.

Approved:

GUY R. MARTIN
Assistant Secretary of the Interior.

[FR Doc. 79-6606 Filed 3-5-79; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT FES 79-12]

PROPOSED 500 KV TRANSMISSION LINE FROM PALO VERDE, ARIZONA TO DEVERS, CALIFORNIA; YUMA DISTRICT, ARIZONA

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement concerning a proposed 500 kV electrical transmission line from Palo Verde Nuclear Generating Station, Arizona to Southern California Edison's Substation at Devers, California. The proposal involves the selection of a route most environmentally suitable consistent with the Bureau of Land Management concept of multiple-use management.

The Department of the Interior invites written comments on the final environmental statement within 30-days of this notice (April 5, 1979). Comments are solicited from public agencies, and interested individuals and entities. Comments should be sent to the Yuma District Office, Bureau of Land Management, Post Office Box 5680, Yuma, Arizona 85364.

A limited number of copies of the final environmental statement are available upon request at the following offices:

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261-4127.
Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602) 261-4231.
Yuma District Office, Bureau of Land Management, 2450 South Fourth Avenue, Yuma, Arizona 85364 (602) 726-2681.
Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507 (714) 796-1462.

Final environmental statement copies will be available for public reading and review at most libraries near the study area and at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240 (202) 343-5717.
Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602) 261-4231.
Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507 (714) 796-1462.
Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261-3706.
Yuma District Office, Bureau of Land Management, 2450 South Fourth Avenue, Suite 310, Yuma, Arizona 85364 (602) 726-2681.
Sacramento State Office, Bureau of Land Management, Federal Office Bldg., R.. E-2841, 2800 Cottage Way, Sacramento, California 95825 (916) 484-4376.

Dated: March 1, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-6613 Filed 3-5-79; 8:45 am]

[4310-31-M]

[Int FES 79-10]

SPRING CREEK MINE, BIG HORN COUNTY, MONTANA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and section 69-6504 R.C.M. 1947 of the Montana Environmental Policy Act of 1971, the Department of the Interior, in cooperation with the State of Montana, has prepared a final environmental impact statement on the proposed Spring Creek surface coal mining operation by the Northern Energy Resources Company in Big Horn County, Montana. The final statement assesses the environmental impacts of the lessee's plan for the surface mining of 10 million tons annually of Federal- and State-owned coal, and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease M-069782 and State coal lease C-535-65, T. 8 S., R. 39 E., Principal meridiam.

The mine plan contained in this final environmental impact statement was submitted prior to the promulgation of interim regulations by the U.S. Office of Surface Mining, pursuant to the Surface Mining Control and Reclamation Act of 1977. The mine plan is currently under review by Federal and State regulatory authorities for compliance with those requirements. It has not yet been determined whether the plan is adequate and in full conformance with applicable requirements of the Act. Once the mine plan is conformed to meet those regulations, the Department will evaluate whether this final environmental impact statement is adequate for the mine plan approval action or whether a supplement to this impact statement needs to be prepared and distributed.

Comments received on the draft environmental statement during the comment period were considered in the preparation of the final environ-

mental statement and are reproduced in the appendix.

The final environmental impact statement is available for public review in the U.S. Geological Survey Library, 1526 Cole Blvd., Golden, Colo.; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va.; the Montana Department of State Lands, 1625 11th Ave., Helena, Mont.; the Bureau of Land Management, Miles City, Mont.; the Parmley Billings Public Library, 510 North Broadway, Billings, Mont.; the Sheridan County Fulmer Public Library, 320 North Brooks, Sheridan, Wyo.; the Big Horn County Public Library, 419 North Custer Ave., Hardin, Mont.; the Montana State Library, 930 East Lyndale, Helena, Mont.; and the Rosebud County Library, 201 North Ninth Ave., Forsyth, Mont.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, CO 80255; and the Montana Department of State Lands, 1625 11th Ave., Helena, MT 59601.

Dated: February 28, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-6494 Filed 3-5-79; 8:45 am]

[4310-05-M]

Office of Surface Mining, Reclamation and Enforcement

[Federal, Coal Leases No. D-044240, C-0767713]

NORTHERN COAL COMPANY—RIENAU NO. 2 MINE, RIO BLANCO AND MOFFAT COUNTY, COLORADO

Availability of Proposed Decision To Approve, With Stipulations, Major Modification of Coal Mining and Reclamation Plan for Public Review

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability, for Public Review, of Proposed Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has received sufficient information to constitute a mining and reclamation plan. The proposed coal mining operation is described below.

LOCATION OF LANDS TO BE AFFECTED BY MODIFICATION

Applicant: Northern Coal Company
Mine Name: Rienau No. 2.
State: Colorado.
County, Rio Blanco and Moffat.
Township, Range, Section: T2N, R93W; 29, 32; T6N, R90W; 1.

Office of Surface Mining Reference No: C0-0008.

The mine is located approximately 40 miles south of Craig, Colorado and about eight miles north of Meeker. The proposed operation involves underground mining and subsequent reclamation on about 123 acres of the total lease area of 490 acres. The mine is presently under OSM enforcement orders to obtain approval of the mine plan. The operation includes a coal load-out facility located immediately south of Craig, Colorado. The proposed addresses single seam room and pillar mining on the advance (designed to protect overlying coal seams), surface operations, and surface drainage control at both the mine and at the coal load-out facility.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed plan is technically adequate. Any additional information obtained during the course of the review will also be available for public review.

No action with respect to approval of any such plan shall be taken by the Regional Director for a period of 30 days after publication in the FEDERAL REGISTER, (April 5, 1979). At the time of recommending a final decision regarding the proposed mining and reclamation, the Office of Surface Mining will issue a Notice of Pending Decision, pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT:

Dan Kimball, Office of Surface Mining, Region V, Room 207, 1823 Stout Street, Denver, Colorado, 80202.

PAUL REEVES,
Deputy Director.

[FR Doc. 79-6830 Filed 3-5-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-48]

ALTERNATING PRESSURE PADS

Termination of Investigation

BACKGROUND

The United States International Trade Commission, acting under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), instituted this investigation on February 17, 1978, on the basis of a complaint filed by Gaymar Industries, Inc., and Medisearch PR, Inc. (complainants). Named as respondents in the Commission's notice of investigation were Flowtron Aire, Ltd., and the Huntleigh Group, Inc. (respondents). The notice of investigation listed the unfair practice allegedly engaged in by respondents as (1) the importation of alternating pressure pads which were allegedly covered by claims 1 and 3-6 of U.S. Letters Patent 3,701,173 (the '173 patent) and (2) the alleged unfair use of promotional and advertising material pertaining to alternating pressure pads (43 FR 7483, Feb. 23, 1978).

On August 7, 1978, complainants filed, pursuant to § 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51), a motion to terminate this investigation as to all issues and with respect to all respondents.

The motion to terminate is based on the discovery by respondents of a prior West German patent reference, which was previously unknown to the parties. Complainants stated that this prior art was not before the patent examiner while the above patent was pending, and that the discovery of the West German patent reference places in question the validity of one or more of the claims in the patent. Complainants also stated in their motion to terminate that respondents have withdrawn the promotional literature from circulation and that prior activities connected therewith were de minimis. Complainants indicated an intention to surrender the patent and to file a reissue application with the Patent and Trademark Office, which complainants subsequently did. On August 18, 1978, complainants filed a supplemental memorandum containing a settlement agreement whereby complainants agreed not to assert the patent claims against respondents or those in privity with respondents (settlement agreement).

The presiding officer, acting in accordance with §§ 210.51(c) and 210.53 of the Commission Rules (19 CFR 210.51(c) and 210.53), concluded that (1) the issue of the promotional literature published by respondents is now moot owing to respondents' discontinuing distribution of such literature, and (2) because complainants have voluntarily moved to terminate the investigation and have entered into a settlement agreement with respondents, there is no present violation of section 337. The presiding officer recommended that the Commission (1) determine that there is no present violation of section 337 in the importation or sale of alternating pressure pads, and (2) terminate the investigation as to all issues and parties, contingent upon complainants' filing with the Commission a copy of their reissue application with proof of filing with the Patent and Trademark Office. The copy of the reissue application with proof of

filing has been properly filed with the Commission. Copies of the presiding officer's recommended determination may be obtained by contacting the Office of the Secretary to the Commission, 701 E Street N.W., Washington, D.C. 20436, telephone (202) 523-0161.

The Commission, in considering the recommended determination, invited public comment on whether there are any potential adverse effects of this settlement agreement on the public interest, and more specifically, whether the agreement is anticompetitive (44 FR 3790, January 18, 1979). The presently active parties to the investigation, including the investigative attorney, submitted comments to the effect that the settlement agreement is not anticompetitive and that it will have no adverse effect on the public interest. No other comments were received.

Commission order: [1] Having considered complainants' motion to terminate this investigation, the recommended determination of the presiding officer, the subsequent submissions related to the public interest, and the entire administrative record, the Commission grants complainants' motion to terminate and hereby terminates this investigation. The Commission terminates this investigation since the respondents have ceased distributing allegedly unfair promotional and advertising material, and the complainant has agreed not to assert the claims of the '173 patent against the respondents. It is further ordered that the Secretary to the Commission file a copy of this notice with the Patent and Trademark Office.

DISCUSSION

It has been Commission practice in investigations under section 337 of the Tariff Act of 1930, when settlement agreements or other agreements are entered into among the parties, to make a determination of no present violation in light of the language of section 337(c) and Commission rule 210.53.[2] This practice has been adopted by the Commission because section 337(c) provides that the Commission is to determine in each investigation whether there is or is not a violation of section 337.[3]

We are of the opinion now, however, that a distinction should be drawn between settlements entered into by the parties and other kinds of termination prior to a hearing, so that in the case of settlements, only an order of termination is required, and no finding as to the issue of violation is necessary.

The Administrative Procedure Act, which is incorporated in section 337(c) of the Tariff Act of 1930, as amended, provides in subsection 5 that agencies must "give all interested parties opportunity" to settle cases.[4] The provision relating to a determination on the issue of violation contained in section 337(c) is not intended to and in our opinion does not negate the provisions of the Administrative Procedure Act allowing for settlement of agency cases.

A finding respecting violation is, in our view, inconsistent with a settlement of a case, since settlement is a means plainly designed to avoid the necessity (and expense to the government and parties) of a determination on matters no longer in issue before the agency. Therefore a determination on the issue of violation is not necessary in this case where the parties have entered into a settlement agreement.

Issued: February 23, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-6741 Filed 3-5-79; 8:45 am]

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[1] Commissioner Moore in voting to terminate this investigation determines that there is no violation of Section 337 of the Tariff Act of 1930, as amended. In this case, he observes that the complainants moved to terminate after respondents submitted information relating to a prior patent which placed the validity of complainants' patent in question and that it is doubtful whether the so-called settlement agreement is binding on the parties.

Commissioner Moore agrees with the recommendation of the Presiding Officer that (1) there is no present violation of Section 337 in connection with the importation of alternating pressure pads or in their sale in the United States and (2) the investigation should be terminated. (See footnote 3, page 5, quoting an opinion in a case similar to this which the CCPA affirmed in Rohm & Haas Co. v. International Trade Commission, 554 F.2d 462).

It is Commissioner Moore's view that the Commission's statutory obligations, and particularly the public interest requirements set forth in Subsection (b)(2) of Section 337 of the Tariff Act of 1930 outweigh any blind adherence to the Administrative Procedure Act which is a procedural law designed to make certain that parties to an administrative proceeding have their rights protected.

Since this document is a Commission notice in a specific case, Commissioner Moore believes it may not be the proper place to develop each and every reason why conforming to the Administrative Procedure Act requires the Commission to ignore the clear mandate of Section 337 that: "The Commission shall determine with respect to each investigation conducted by it under this section, whether or not there is a violation of this section".

However, Commissioner Moore takes particular exception to the charge by the majority that such compliance with Section 337 in settlement cases will cause more expense to the government and to the parties.

Further, Commissioner Moore observes that only in rare instances since its enactment has the Commission failed to make a determination on the issue of violation in Section 337 cases and that neither the language of Section 337(c) nor Commission's Rule 210.53 admonishes the Commission not to do so. Therefore, he suggests if the majority wishes to distort the clear intent of the Congress in terms of a general rule, as expressed in this case, that it do so specifically by incorporating such language into the Commission's Rules of Practice and Procedure.

[2] *Dot Matrix Impact Printers*, Investigation No. 337-TA-32, decided December 8, 1977, *Certain Numerically Controlled Machining Centers and Components Thereof*, Investigation No. 337-TA-34, decided February 6, 1978.

[3] In *Bismuth Molydate Catalysts*, Investigation No. 337-TA-20 (Notice of Termination, Oct. 15, 1976), Commissioners Moore and Bedell held that a determination was required in that case where complainant had filed a motion to dismiss the complaint. Chairman (then Commissioner) Parker held that no determination of violation is required where a complainant voluntarily moves to dismiss its own complaint.

[4] Section 554(c) of the Administrative Procedure Act (5 U.S.C. 554(d)) provides, in part:

The agency shall give all interested parties opportunity for—(1) the submission and consideration of * * * offers of settlement * * * when time, the nature of the proceeding, and the public interest permit; * * *

[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Meeting

The BRAC Committee on Manpower and Employment will meet on Monday, March 26, 1979, at 10:00 a.m. in Room 4454 (A and B) of the General Accounting Office Building, 441 G Street, NW., Washington, D.C. The agenda for the meeting is as follows:

1. Discussion of the "Summary of Major NCEUS Recommendations."
2. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C. this 28 day of February, 1979.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 79-6704 Filed 3-5-79; 8:45 am]

[4510-30-M]

Employment and Training Administration

NATIVE AMERICAN PRIVATE SECTOR INITIATIVES PROGRAM

Allocation of Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides the plans of the Employment and Training Administration for allocating funds for the Native American Private Sector Initiatives Program.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander S. McNabb, Director, Division of Indian and Native American Programs, Room 6402, 601 D Street, N.W., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the 1978 Amendments to the Comprehensive Employment and Training Act (CETA), the Division of Indian and Native American Programs (DINAP) announces a program authorized under Title VII of CETA to demonstrate the effectiveness of a variety of approaches to tie private industry closer to employment and training programs, and the private sector. Based on the Administration's budget request for this program a minimum of $8 million will be available through this solicitation to Native American grantees who are eligible under Section 302(c)(1) (A) and (B) of CETA. Award of grants under this program is contingent upon the availability of funds. A "Solicitation for Grant Application" (SGA) that will describe application procedures and items necessary for a proposal will be issued immediately to all eligible Native American grantees.

Selection of proposals will be done on a competitive basis. DINAP will select a non-profit institution to evaluate, rank and make funding recommendations to the Director, DINAP, who will make the grant awards. Criteria on which proposals will be evaluated are contained in the SGA. Regulations for the Native American Private Sector Initiatives Program (NAPSIP) are being developed, and will be issued as soon as possible. The SGA contains enough regulatory guidance for eligible Native American grantees to begin development of their proposals. Submission of proposals is not mandatory, but is the only mechanism by which NAPSIP funds will be awarded.

All eligible Native American grantees desiring NAPSIP funds must establish a Private Industry Council (PIC) to assist in the development of the proposal and the implementation of the program if award is made. The PIC must be made up of representatives from private industry, organized labor, community based organizations, and educational institutions. A majority of the membership must be from private industry. Details on the PIC are contained in the SGA.

DINAP will make available to each eligible prime sponsor a planning grant. Planning grant funds are to be used to develop the PIC and the proposal. The planning grant will be for a minimum of $2,000, with all eligible Native American grantees receiving the same amount.

All NAPSIP proposals from eligible Native American grantees must be received by 4:45 p.m. on April 17, 1979. The address to which they must be forwarded is:

Room 6402, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

Signed in Washington, D.C., this 11th day of December 1978.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc. 79-6706 Filed 3-5-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-79-8-C]

EASTOVER MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Eastover Mining Company, Brookside, Kentucky 40801, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Highsplint and Brookside Mines in Harlan County, Kentucky and its Arjay Mine in Bell County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. The substance of the petition follows:

1. The petitioner is mining in heights averaging 42 inches with a present minimum of 30 inches. The coal seams are very erratic and traveling clearances vary considerably due to abnormal geological conditions.

2. An operator with his head near a low canopy suffers from shadows, blank spots and blind areas in his vision due to lighting required on the equipment.

3. To improve his vision and comfort, the operator in a cramped cab or canopy tends to hang his head and part of his body outside the confines of the equipment cab. While leaning out, the operator can be crushed, thrown from the equipment, hit by another piece of equipment or lose his balance and topple from his normal position.

4. From the strained body position in the confines of a cab or canopy, the operator can suffer muscle spasms or other physical impairments that could result in loss of control of the equipment, endangering other miners in the area.

5. In the confines of a cab or canopy, an operator must completely leave his machine to reposition himself to travel in the opposite direction. When leaving the operator's compartment, the power should be de-energized and the brakes locked. However, many operators fail to follow the prescribed procedures and accidents occur.

6. For these reasons, the petitioner states that the installation of cabs or canopies of the face equipment listed in its petition would result in a diminution of safety for the miners involved.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before April 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 23, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-6705 Filed 3-5-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

[V-78-5]

INTERLAKE STAMPING CORP.

Experimental Variance Extension

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of Extension of Variance.

SUMMARY: This notice announces the grant of an extension of an experimental variance to Interlake Stamping Corporation from the standards prescribed in 29 CFR 1910.217 concerning mechanical power presses.

DATES: The effective date of the extension is March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Ave., N.W., Room N-3663,

Washington, D.C. 20010, Telephone: (202) 523-7121 or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Department of Labor—OSHA, Federal Office Building—Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

I. Background

The Secretary of Labor has proposed to extend the experimental variance granted to Interlake Stamping Corporation under section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594; 29 U.S.C. 655). The experimental variance was originally granted on August 31, 1976 (41 FR 36702) from the standards prescribed in 29 CFR 1910.217(c)(3)(iii)(*b*) which prohibits the use of a presence sensing device for tripping a mechanical power press. The experiment was extended for six months on September 9, 1977 (42 FR 45389). The facility affected by this application is: Interlake Stamping Corporation, 4732 East 355th Street, Willoughby, Ohio 44094.

Notice of the proposed extension, and of the granting of an interim extension order, was published in the Federal Register on March 17, 1978 (43 FR 11275). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the extension of the variance. In addition, affected employers and employees were notified of their right to request a hearing on the proposed extension. No requests for a hearing have been received. Three letters were received in response to the notice. Two asked for information on the system, and one contained substantive comments on the notice which will be addressed below.

II. Facts

The experimental variance authorizes the use of Erwin Sick electronic light curtains as a tripping means as well as a point of operation device on five Bliss-OBI mechanical power presses.

Five additional Bliss-OBI mechanical power presses are used as a control group with conventional tripping means in order to compare the safety, worker acceptance and productivity of the two methods.

The notice also stated that "This system has been used in Sweden and West Germany with excellent safety records, but has not been permitted in this country." A comment letter from Sick Optik Elektronik, Inc. correctly pointed out that this sentence is subject to misinterpretation in several ways. First, the word "system" here was meant to apply to the entire press control system, not only the light curtain. The system in use involves not only the light curtain, but also the special control design, supplemental guarding, and must be used on a press of acceptable design. Second, the light curtain is legally used in this country as a means of guarding presses. In addition, the prohibition contained in § 1910.217(c)(iii)(*b*) applies only to mechanical power presses.

The initial purpose of this experiment was to collect information to aid in determining whether the OSHA standard should be modified to permit the tripping of mechanical power presses with presence sensing devices.

To date, the comparison record for malfunctions and for productivity between the presses using automatic tripping and those using conventional tripping means shows fewer malfunctions and higher productivity on those with automatic tripping.

As information has been collected from Interlake and other sources during this experimental period, it has become apparent that additional information is needed before a final decision can be made on whether to modify the standard and, if so, what requirements and/or restrictions should be included in the new standard.

III. Decision

It has been determined that the extension of this experiment, for a period not to exceed two years, is an appropriate part of the process of seeking more information in order to make a decision on whether to modify the standard. No objections to this extension were raised in the comment letters. The continuing use of the presses in an automatic trip mode will provide continuing comparison data on different methods of actuating presses. This information provides a base against which to evaluate other information obtained through other means.

In addition, while the experiment may later be expanded to include other worksites, it is valuable to have a location in which to observe the system in use.

IV. Order

Pursuant to authority in section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059) it is ordered that Interlake Stamping Corporation be, and it is hereby, authorized to continue its experiment for up to two more years under the terms of the order granting the experimental variance of August 31, 1976 (41 FR 36702). In addition, Interlake shall obtain, within two weeks of the date of this extension, new statements from all operators as required under item 5(b) of the original order granting the variance. In addition, item 17 of the original order shall be modified to read:

17. This variance shall continue in effect for a period not to exceed two years.

As soon as possible Interlake Stamping Corporation shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on March 6, 1979, and shall remain in effect until modified or revoked in accordance with section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 28th day of February, 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-6707 Filed 3-5-79; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4451]

ACME LEATHER SPORTSWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4451: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 27, 1978 which was filed by the Amalgamated Cotton Garment and Allied Industries (a division of the Amalgamated Clothing and Textile Workers Union) on behalf of workers and former workers producing men's suede and leather sportswear and outerwear at Acme Leather Sportswear, Inc., Elizabeth, New Jersey. The investigation revealed that the plant primarily produces men's leather, split cow, suede, and fabric outerwear.

The Notice of Investigation was published in the Federal Register on December 8, 1978 (43 FR 57692-57693). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Acme Leather Sportswear Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of leather coats and jackets—men's, boy's, women's, misses', juniors', and children's—increased absolutely in 1977 compared to 1976 and in the first nine months of 1978 compared to the same period in 1977.

Imports of men's and boys' non-tailored outer jackets increased absolutely and relative to domestic production in 1977 compared to 1976 and increased absolutely in the first nine months of 1978 compared to the first nine months of 1977.

A survey of customers of Acme revealed that customers had decreased purchases from Acme and increased purchases of imported leather and fabric coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's leather, suede, split cow, and fabric coats produced by Acme Leather Sportswear, Inc., Elizabeth, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Acme Leather Sportswear, Inc., Elizabeth, New Jersey who became totally or partially separated from employment on or after September 8, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6708 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4326]

ASPEN SKIWEAR

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4326: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 2, 1978 in response to a worker petition received on October 31, 1978 which was filed on behalf of workers and former workers producing ski jackets and men's and boys' knit sport shirts at the Pueblo, Colorado plant of Aspen Skiwear, Denver, Colorado.

The Notice of Investigation was published in the FEDERAL REGISTER on November 13, 1978 (43 FR 52564). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Aspen Skiwear and of Richton Sportswear, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of feather products, including down-filled ski jackets, increased annually from 1976 through 1978. U.S. imports of men's and boys' knit sport and dress shirts increased from 1976 to 1977 and in January-September 1978 compared to same period in 1977.

The Department's investigation revealed that imports of finished ski jackets by Aspen Skiwear increased in January-September 1978 compared to the like period in 1977. A Departmental survey revealed that customers had reduced purchases of men's and boys' knit sport shirts from the subject firm and had increased purchases of imported knit sport shirts in the first eleven months of 1978 compared to the first eleven months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ski jackets and men's and boys' knit sports produced at the Pueblo, Colorado plant of Aspen Skiwear, Denver, Colorado contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Pueblo, Colorado plant of Aspen Skiwear, Denver, Colorado who became totally or partially separated from employment on or after June 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6709 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4453]

BRUNSWICK WORSTED MILLS, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4453: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Amalgamated Clothing and Textile Worker's Union on behalf of workers and former workers distributing textiles (arts and crafts) to customers at Brunswick Worsted Mills, Incorporated, Moosup, Connecticut. The investigation revealed that the workers warehouse and distribute needlepoint, latch-hook rug and hand knitting yarns.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692-3). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brunswick Worsted Mills, Incorporated, its customers, Textile Economics Bureau, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Results of a survey of customers of Brunswick Worsted Mills indicates little impact of imports on Brunswick's sales. Customers of Brunswick which decreased purchases from Brunswick

and increased purchases of imports represented an insignificant portion of Brunswick's decline in sales.

U.S. imports of yarn increased in 1977 from 1976 and increased in the first 9 months of 1978 compared to the first 9 months of 1977. Imports as a percentage of U.S. production were 1.6 percent in 1976 and 1.7 percent in 1978.

CONCLUSION

After careful review, I determine that all workers of Brunswick Worsted Mills, Incorporated, Moosup, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-6710 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4545]

CAPEHART CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4545: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1978 in response to a worker petition received on December 20, 1978 which was filed on behalf of workers and former workers producing A.M. and F.M. stereo chassis at the City of Industry, California plant of the Capehart Corporation. The investigation revealed that the plant produces stereo consoles and stereo modular systems.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033-2034). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Capehart Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of radio-phonograph-tape combinations increased absolutely and relative to domestic production in 1977 compared to 1976 and in the first nine months of 1978 compared to the first nine months of 1977.

A survey of customers of Capehart revealed that several surveyed customers were decreasing purchases from Capehart while increasing purchases of imported stereo consoles and stereo modular systems.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with stereo consoles and stereo modular systems produced by the City of Industry, California plant of the Capehart Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the City of Industry, California plant of Capehart Corporation who became totally or partially separated from employment on or after December 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-6711 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4489]

COOKEVILLE SHIRT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4489: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on November 27, 1978 which was filed on behalf of workers and former workers producing men's and boys' sport and dress shirts at Cookeville Shirt Company, Cookeville, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59179-80). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Washington Manufacturing Company, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress and business shirts increased from 64,283 thousand units in 1976 to 64,446 thousand units in 1977, and from 48,918 thousand units in the period from January to September, 1977 to 55,446 thousand units in the same period in 1978. The ratio of imports to domestic production increased from 70.4 percent in 1976 to 72.6 percent in 1977. U.S. imports of men's and boys' woven sport shirts decreased slightly from 79,820 thousand units in 1976 to 75,274 thousand units in 1977, and increased from 56,784 thousand units in the period from January to September, 1977 to 72,259 thousand units in the same period in 1978. The ratio of imports to domestic production increased from 44.9 percent in 1976 to 47.1 percent in 1977.

The Department of Labor conducted a survey of the customers of Cookeville Shirt Company's parent firm, Washington Manufacturing Company. In 1977 and 1978, many of the customers surveyed decreased purchases of men's shirts from Washington Manufacturing Company and increased purchases of imported shirts. Washington Manufacturing Company itself has begun importing men's shirts; delivery of the first shipment ordered is scheduled for Spring, 1979.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like of directly competitive with men's and boys' sport and dress shirts produced at Cookeville Shirt Company, Cookeville, Tennessee contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cookeville Shirt Company, Cookeville, Tennessee, who became totally or partially separated from employment on or after November 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6712 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4525]

COOPER ALLOY CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4525: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1978, in response to a worker petition received on December 14, 1978, which was filed by the International Molders' and Allied Workers' Union on behalf of workers and former workers performing casting and foundry work at Cooper Alloy Corporation, Hillside, New Jersey. The investigation revealed that the name of the subject firm is Cooper Alloy Corporation and the products manufactured at the Hillside, New Jersey, plant were high alloy steel castings.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978, (43 FR 61038-39). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Cooper Alloy Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

> That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of steel castings, which include high alloy steel castings, although extremely small did increase both absolutely and relative to domestic production in 1977 compared to 1976. The imports to domestic production ratio increased from 1.1 percent in 1976 to 1.3 percent in 1977 and remained constant at 1.3 percent in the first nine months of 1978 compared to the same period in 1977.

The Department conducted a survey of major customers which represented over 90 percent of Cooper Alloy's 1977 sales. Only one of the customers who reduced purchases from Cooper Alloy increased imports of steel castings and this customer represented a de minimus percent of Cooper Alloy's decline in sales.

CONCLUSION

After careful review, I determine that all workers of Cooper Alloy Corporation, Hillside, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-6713 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4405]

DUNWELL BRA ACCESSORIES AND MARDI BRA CREATIONS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4405: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 17, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing brassieres and girdles at Dunwell Bra Accessories, New York, New York and its sales organization, Mardi Bra Creations Corporation, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dunwell Bra Accessories, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Dunwell Bra Accessories produces brassieres and girdles. Imports of brassieres, bralettes and bandeaux increased from 8,751,000 dozen in 1976 to 9,507,000 dozen in 1977 and increased from 7,067,000 dozen in the first nine months of 1977 to 7,918,000 dozen in the first nine months of 1978. Imports of corsets and girdles increased from 231,000 dozen in 1976 to 269,000 dozen in 1977 and increased from 188,000 dozen in the first nine months of 1977 to 294,000 dozen in the first nine months of 1978. The ratio of imports to domestic production for brassieres increased from 51.7 percent in 1976 to 59.3 percent in 1977. The bulk of imports of brassieres and girdles enter the country under Tariff Provision 807.00.

A Department survey of Dunwell Bra Accessories' customers in conjunction with the import data above indicated that customers had decreased their purchases of brassieres and girdles from Dunwell Bra Accessories and had increased their purchases of indirect imports of brassieres and girdles.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres and girdles produced at Dunwell Bra Accessories, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

> All workers of Dunwell Bra Accessories, New York, New York and Mardi Bra Creations Corporation, New York, New York who became totally or partially separated from employment on or after November 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6714 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4590, et al.]

EASTERN ASSOCIATED COAL CORP., ET AL.

Termination of Investigation

In the matter of Eastern Associated Coal Corporation, Harris No. 1 Mine, Bald Knob, West Virginia (TA-W-4590); Eastern Associated Coal Corporation, Harris No. 2 Mine, Bald Knob,

West Virginia (TA-W-4591); Eastern Associated Coal Corporation, Hernshaw Mine, Bald Knob, West Virginia (TA-W-4592); Eastern Associated Coal Corporation, Federal No. 1 Mine, Grant Town, West Virginia (TA-W-4603); Eastern Associated Coal Corporation, Federal No. 2 Mine, Fairview, West Virginia Mine, (TA-W-4604); and Eastern Associated Coal Corporation, Joanne Mine, Rachel, West Virginia (TA-W-4605).

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 8, 1979 in response to a worker petition received on December 18, 1978 which was filed by the United Mine Workers of America, in part on behalf of workers and former workers producing metallurgical coal at the Harris No. 1 Mine, Bald Knob, West Virginia; Harris No. 2 Mine, Bald Knob, West Virginia; Hernshaw Mine, Bald Knob, West Virginia; Federal No. 1 Mine, Grant Town, West Virginia; Federal No. 2 Mine, Fairview, West Virginia; and Joanne Mine, Rachel, West Virginia, of Eastern Associated Coal Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4029-30). No public hearing was requested and none was held.

The attorney for the petitioners requested termination of the investigation of the petition insofar as it related to the operations and employees at the above named properties of Eastern Associated Coal Corporation. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 28th day of February, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-6715 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4601; TA-W-4602]

EASTERN ASSOCIATED COAL CORP.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 8, 1979 in response to a worker petition received on December 18, 1978 which was filed by the United Mine Workers of America, in part on behalf of workers and former workers producing metallurgical coal at the Colver Mine, Colver, Pennsylvania and the Delmont Loading Facility, Hunker, Pennsylvania, of Eastern Associated Coal Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4029-30). No public hearing was requested and none was held.

The attorney for the petitioners requested termination of the investigation of the petition insofar as it related to the operations and employees at the above named properties of Eastern Associated Coal Corporation. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 28th day of February, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-6716 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4528]

FLORSHEIM SHOE CO., CAPE GIRARDEAU, MO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4528: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 13, 1978 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's footwear at the Cape Girardeau, Missouri plant of the Florsheim Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Florsheim Shoe Company, major footwear retailers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased absolutely and relative to domestic production in 1977 compared to 1976 and relative to domestic production in 1978 compared to 1977. Imports as a percentage of domestic production exceeded 75 percent during 1976, 1977, and 1978.

Total Florsheim Shoe Company imports of men's footwear increased in 1977 compared to 1976 and in 1978 compared to 1977. A survey revealed that major retail stores throughout the country are increasing purchases of imported men's and boys' non-athletic footwear.

CONCLUSION

After careful review of the facts obained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's footwear produced at the Cape Girardeau, Missouri plant of the Florsheim Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cape Girardeau, Missouri plant of the Florsheim Shoe Company who became totally or partially separated from employment on or after October 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-6717 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4606 *et al.*]

GOPHER MINING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4606, 4607, and 4609: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 8, 1979 in response to a worker petition received on January 2, 1979 which was filed by the United Mine Workers of America, District 29, in part on behalf of workers and former workers producing metallurgical coal at the Springdale, West Virginia mine; Springdale, West Virginia cleaning facility; and Hump Mountain, West Virginia mine of the Gopher Mining Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4029-30). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Gopher Mining Compa-

ny, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Gopher Mining Company began to produce metallurgical coal at the Springdale mine and cleaning facility and at the Hump Mountain mine in August and September 1978 and ceased in December 1978. Gopher Mining Company sold its metallurgical coal in about equal proportions to both foreign and domestic customers. One major customer, representing most of Gopher's domestic sales, owns metallurgical coal mines that were affected by the U.M.W.A. strike in the first quarter of 1978. Its coal inventories were drawn down considerably because of the strike and to replenish dwindly coal supplies, "spot" purchases were made from serveral small domestic mining companies. A "one-time only" order was placed with Gopher Mining Company in August 1978. No further orders were placed after delivery of that order in December 1978.

CONCLUSION

After careful review, I determine that all workers at the Springdale, West Virginia mine; Springdale, West Virginia cleaning facility; and Hump Mountain, West Virginia mine of the Gopher Mining Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6718 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4549]

HARBISON WALKER REFRACTORIES GROUP DRESSER INDUSTRIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4549: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, in response to a worker petition received on December 18, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing silica refractory brick at the Mount Union, Pennsylvania plant of Harbison Walker Refractories Group, Dresser Industries, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Harbison Walker Refractories Group, Dresser Industries, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Refractory products are produced according to contracts awarded by customers on a competitive bid basis. Evidence developed during the course of the investigation revealed that Harbison Walker Refractories Group, Dresser Industries, Incorporated lost no bids for silica refractory brick to foreign competitors in 1978.

CONCLUSION

After careful review, I determine that all workers of the Mount Union, Pennsylvania plant of Harbison Walker Refractories Group, Dresser Industries, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-6719 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4472]

HUNTLEY OF YORK, LTD.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4472: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on December 4, 1978 which was filed on behalf of workers and former workers producing full-fashioned shirts and sweaters at Huntley of York, Ltd., York, South Carolina. The investigation revealed that knit fabric is also produced at Huntley of York, Ltd.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-59166). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Huntley of York, Ltd., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing knit fabric and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of knit fabric by Huntley increased in 1977 compared to 1976 and in 1978 compared to 1977.

Production of knit fabric by Huntley increased in 1977 compared to 1976 and in 1978 compared to 1977.

With respect to workers producing knit sweaters and shirts all of the group eligibility requirements of Section 222 of the Act have been met.

Imports of both men's knit sweaters and shirts increased absolutely in 1977 compared to 1976 and in the first nine months of 1978 compared to the first nine months of 1977.

A customer survey revealed that a primary customer of Huntley of York increased purchases of imported knit sweaters and shirts in 1978 while decreasing purchases from Huntley of York.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit sweaters and shirts produced at Huntley of York, Ltd., York, South Carolina, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Huntley of York, Ltd., York, South Carolina, engaged in employment related to the production of men's knit sweaters and shirts, who became totally or partially separated from employment on or after June 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of knit fabric at Huntley of York, Ltd., York, South Carolina are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 28th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-6720 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4559]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4559: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978, in response to a worker petition received on December 26, 1978, which was filed on behalf of workers and former workers producing men's dress and casual shoes at the West Plains, Missouri plant of International Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's dress and casual footwear, except athletic, increased both absolutely and relative to domestic production from 1976 to 1977. While decreasing slightly during the first three quarters of 1978 compared to the same period of 1977, the ratio of imported men's dress and casual footwear to domestic production exceeded 75 percent during 1976, 1977 and the first three quarters of 1978.

A survey of the major U.S. retail outlets conducted by the Department of Labor revealed that imported men's and boys' non-athletic footwear increased their share of total demand for non-athletic footwear by those retail outlets during the first three quarters of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's shoes produced at the West Plains, Missouri plant of International Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the West Plains, Missouri, plant of International Shoe Company who became totally or partially separated from employment on or after December 29, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6721 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4614]

ITMANN COAL CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 8, 1979 in response to a worker petition received on December 18, 1978 which was filed by the United Mine Workers of America, in part on behalf of workers and former workers producing metallurgical coal at Itmann Coal Company, Itmann, West Virginia.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4029-30). No public hearing was requested and none was held.

The attorney for the petitioners requested termination of the investigation regarding Itmann Coal Company. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 27th day of February, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-6722 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4450]

LOUIS WALTER CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4450: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats at Louis Walter Company, Incorporated, Los Angeles, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Louis Walter Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Departent files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of domestically produced women's coats at Louis Walter Company increased in quantity and value in 1978 compared to 1977.

Sales of domestically produced women's coats at Louis Walter increased in value in every quarter of 1978 compared to the same quarter of the previous year.

CONCLUSION

After careful review, I determine that all workers of the Louis Walter Company, Incorporated, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-6723 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4072]

MASLAND DURALEATHER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4072: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 17, 1978 in response to a worker petition received on August 15, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing vinyl coated fabrics and film (wall coverings) at the Masland Duraleather Manufacturing Company, Philadelphia, Pennsylvania. The investigation revealed that the correct name of the firm is The Masland Duraleather Company and that the workers produce polyvinyl chloride film and coated fabrics.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39194). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of The Masland Duraleather Company, its customers, Uniroyal Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of Masland. Those customers that reduced purchases from Masland and increased purchases of imported vinyl coated fabric and film represented an insignificant proportion of the subject firms sales decline in the first eleven months of 1978 compared to the same period in 1977. Customers that reduced purchases in 1977 compared to 1976 did not increase purchases of imports in this period.

CONCLUSION

After careful review, I determine that all workers of the Philadelphia, Pennsylvania plant of The Masland Duraleather Company are denied eligiblity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 28th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-6724 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4081; TA-W-4081A]

MERIT ENTERPRISES, INC. AND MARCO ELECTRIC MANUFACTURING CORP.

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the result of TA-W-4081: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 18, 1978 in response to a worker petition received on August 18, 1978 which was filed by the United Industrial Workers of America on behalf of workers and former workers producing fans, hair dryers, lighted mirrors, crockpots, deep fryers, etc., at Merit Enterprises, Incorporated, Newark, New Jersey. During the investigation it was established that Merit Enterprises, Incorporated is a wholly-owned subsidiary of Marco Electric Manufacturing Corporation, Womelsdorf, Pennsylvania. Marco Electric manufactures appliance motors as well as some electric appliances. The Department's investigation, therefore, has been expanded to cover Marco Electric Manufacturing Corporation, Womelsdorf, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193-94). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Marco Electric Manufacturing Corporation, Merit Enterprises, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers producing hair dryers at Merit Enterprises and workers producing hair dryer motors at Marco Electric Manufacturing Corporation, it is concluded that all of the criteria have been met.

Virtually all of the hair dryer motors produced by Marco Electric are sold to Merit Enterprises, which is a subsidiary of Marco Electric.

U.S. imports of electric hair dryers increases absolutely and relative to domestic production from 1975 to 1976 and from 1976 to 1977. U.S. imports increased absolutely in the first half of 1978 compared with the first half of 1977.

Merit Enterprises has imported hair dryer motors since 1977 and began importing hair dryers in January, 1979.

The Department conducted a survey of customers of hair dryers of Merit Enterprises. The survey revealed that some customers decreased their purchases of hair dryers from Merit Enterprises in the first eleven months of 1978 compared to the first eleven months of 1977 and in the same period increased their purchases of imported hair dryers.

With respect to workers producing electric appliances and fans at Merit Enterprises and workers producing electric appliances and appliance motors, other than for hair dryers, at Marco Electric Manufacturing Corporation, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increase of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Total sales by Merit Enterprises increased from 1976 to 1977 and in the

first six months of 1978 compared with the same period of 1977.

Sales of fans produced by Merit increased from 1976 to 1977 and in the first half of 1978 compared with the same period of 1977. Sales of company produced electric appliances decreased in the first half of 1978 compared with the same period of 1977.

The Department conducted a survey of customers of electric appliances of Merit Enterprises. The survey indicated that most customers did not purchase imported portable electric kitchen appliances.

Employment of production workers at Marco Electric decreased in 1977 compared with 1976. Employment declines can be attributed to declines in the production of hair dryer motors. Employment of production workers increased in the first nine months of 1978 compared with the same period of 1977. Increases in employment can be attributed to increased production of electric appliances and electric motors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the hair dryers produced at Merit Enterprises, Incorporated, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm and of Marco Electric Manufacturing Corporation, Womelsdorf, Pennsylvania.

In accordance with the provisions of the Act, I make the following certifications:

All workers of Merit Enterprises, Incorporated, Newark, New Jersey engaged in employment related to the production of hair dryers who became totally or partially separated from employment on or after December 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of Marco Electric Manufacturing Corporation, Womelsdorf, Pennsylvania, engaged in employment related to the production of hair dryer motors who became totally or partially separated from employment on or after August 15, 1977 and before December 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated after December 1, 1977 are denied program benefits.

I further conclude that all workers of Merit Enterprises, Incorporated, Newark, New Jersey, engaged in employment related to the production of fans and electric appliances and all workers of Marco Electric Manufacturing Corporation, Womelsdorf, Pennsylvania, engaged in employment related to the production of electric appliances and appliance motors, other than hair dryer motors, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 22nd day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-6725 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4561]

MISTER HERBERT OF CALIFORNIA, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4561: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 20, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at Mister Herbert of California, Incorporated, Los Angeles, California. The investigation revealed that the plant primarily produces women's coats, raincoats and jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mister Herbert of California, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative detemination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1977 compared to 1976. Imports of women's, misses' and children's coats and jackets increased absolutely in 1978 compared to the average level of imports during the period 1974 through 1977.

U.S. imports of women's, girls', and infants' raincoats decreased both absolutely and relative to domestic production in 1977 compared to 1976. Imports increased absolutely in 1978 compared to 1977.

The Department conducted a survey of a sample of customers that reduced purchases from Mister Herbert in 1978 compared to 1977. A significant proportion of those customers surveyed increased their purchases of imported women's coats (including winter coats, raincoats and jackets) in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats, raincoats and jackets produced at Mister Herbert of California, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Mister Herbert of California, Incorporated, Los Angeles, California, who became totally or partially separated from employment on or after September 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 73-6726 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4510]

ONTARIO GARMENT, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4510: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Ontario Garment, Incorporated, Upland, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ontario Garment, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Na-

tional Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistnce each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of manufacturers for whom Ontario Garment performs contract work. Manufacturers responding to the survey indicated a decrease in purchases of imported ladies' coats in 1978 compared to 1977.

CONCLUSION

After careful review, I determine that all workers of Ontario Garment, Incorporated, Upland, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-6727 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4387]

REVERE COPPER & BRASS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4387: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 13, 1978 which was filed on behalf of workers and former workers producing non-ferrous metals in strip, sheet and plate forms at the New Bedford, Massachusetts Division of Revere Copper and Brass, Incorporated. The investigation revealed that the intent of the petition was to cover workers engaged in the production of copper and copper-base alloy strip, sheet and plate products at the New Bedford Division.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Revere Copper and Brass, Incorporated, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the Copper Development Association, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Total production of the New Bedford Division, in quantity, increased in the first ten months of 1978 compared with the same period of 1977. Production of copper and copper-alloy plate and strip at the New Bedford Division increased in the first ten months of 1978 compared with the same period of 1977. Production of sheet at the New Bedford Division decreased in the first ten months of 1978 compared with the same period of 1977.

Copper and copper-alloy strip and sheet are also produced at the Detroit, Michigan and the Rome, New York Divisions of Revere Copper and Brass. Sales of sheet and strip by the Michigan and Rome Divisions increased from 1976 to 1977 and from 1977 to 1978. Strip operations at New Bedford will be transferred to the Rome and Michigan Divisions in 1979.

CONCLUSION

After careful review, I determine that all workers of the New Bedford, Massachusetts Divisions of Revere Copper and Brass, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-6728 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-1625]

SOUTH BEND TOY MANUFACTURING CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1977 in response to a worker petition received on January 31, 1977 which was filed by the United Furniture Workers of America on behalf of workers and former workers producing baby doll strollers at the South Bend Toy Manufacturing Company, South Bend, Indiana, a division of Milton Bradely Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12498). No public hearing was requested and none was held.

The Department received a letter from the petitioning group of workers requesting withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 26th day of February, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-6729 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4288]

TELETYPE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4288: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 24, 1978 in response to a worker petition received on October 20, 1978 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing teletype machines (for data processing) at the Little Rock, Arkansas plant of Teletype Corporation. The investigation revealed that the plant produces teletype machines for data processing and other end uses.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51476). No public hearing was requested and none was held.

The determination was based upon information obtained principally from

officials of Teletype Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey conducted with customers of Teletype Corporation revealed that customers did not purchase imported teletype machines in 1976, 1977 or the first half of 1978.

CONCLUSION

After careful review, I determine that all workers of the Little Rock, Arkansas plant of Teletype Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1979.

C. MICHAEL AHO,
Director, Office Foreign Economic Research.

[FR Doc. 79-6730 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4570 *et al.*]

U & I, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4570 to 4579: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 2, 1979 in response to worker petitions received on December 27, 1978, which were filed by U & I, Incorporated, on behalf of workers and former workers engaged in the production, sale and distribution of refined sugar at the following facilities of U & I, Incorporated: West Jordan, Utah (TA-W-4570); Idaho Falls, Idaho (TA-W-4571); Toppenish, Washington (TA-W-4572); Moses Lake, Washington (TA-W-4573 and 4575); Salt Lake City, Utah (TA-W-4574); Omaha, Nebraska (TA-W-4576); Kansas City, Missouri (TA-W-4577); Seattle, Washington (TA-W-4578); and Portland, Oregon (TA-W-4579). Petitions were subsequently filed by the American Federation of Grain Millers on behalf of all workers at the above-mentioned facilities.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of U & I, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must have been met.

Imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in 1977 from 1976 and decreased in 1978 compared to 1977. U.S. production of sugar decreased in 1977 from 1976 and in 1978 from 1977 while sugar imports reached an all-time high in 1977. The ratio of imports to domestic production increased from 66 percent in 1976 to 96 percent in 1977 and decreased to 79 percent in 1978. The ratio of imports to domestic production averaged 62.5 percent in the 1975-1976 period and averaged 87.5 percent in the 1977-1978 period.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions. Removal of quotas occurred about the time per capita sugar consumption declined in the U.S.

The price of raw sugar peaked at 65 cents per pound in the week of November 18, 1974. Since that time sugar prices have been in a state of decline. World prices fell to 11.5 cents per pound in 1977 and fell to less than 8 cents per pound in 1978.

In September 1977, the U.S. Department of Agriculture (U.S.D.A.), considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers. Costs of production at U & I, Inc. have substantially exceeded the market price for sugar in the 1977-1978 period.

The U.S. International Trade Commission conducted an investigation under Section 201 of the Trade Act of 1974 and in March 1977 issued a finding that sugar was being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic sugar industry. The Commission also conducted an investigation under Section 22 of the Agricultural Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

U & I, Incorporated, citing losses on the manufacture and sale of sugar, has announced its intention to terminate sugar operations following processing and sale of the 1978 sugar beet crop. All facilities engaged in the production, sale, and distribution of sugar will be closed by U & I, Incorporated in January, 1979 as the result of the termination of sugar operations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the refined sugar produced, sold, and distributed by U & I, Incorporated at West Jordan, Utah; Idaho Falls, Idaho; Toppenish, Washington; Moses Lake, Washington; Salt Lake City, Utah; Omaha, Nebraska; Kansas City, Missouri; Seattle, Washington; and Portland, Oregon contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of U & I, Incorporated: West Jordan, Utah; Idaho Falls, Idaho; Toppenish, Washington; Moses Lake, Washington; Salt Lake City, Utah; Omaha, Nebraska; Kansas City, Missouri; Seattle, Washington; and Portland, Oregon who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-6731 Filed 3-5-79; 8:45 am]

[4510-28-M]

[TA-W-4664-4671, *et al.*]

WESTMORELAND COAL CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 11, 1979 in response to a worker petition received on December 18, 1978 which was filed by the United Mine Workers of America, in part on behalf of workers and

former workers producing metallurgical coal at the following facilities of the Stonega Division of the Westmoreland Coal Company (all located in Big Stone Gap, Virginia):

TA-W-4664—Bullitt Mine
TA-W-4665—Derby #4 Mine
TA-W-4666—Derby #5 MIne
TA-W-4667—Armo Mine
TA-W-4668—Prescott #1 Mine
TA-W-4669—Prescott #2 Mine
TA-W-4670—Prescott CBA Mine
TA-W-4671—Osaka #2 Mine
TA-W-4677—Holton Marker Mine
TA-W-4678—Holton Taggard Mine
TA-W-4679—Bullitt Preparation Plant
TA-W-4682—Prescott Preparation Plant

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4040-41). No public hearing was requested and none was held.

The attorney for the petitoners requested termination of the investigation of the petition insofar as it related to the operations and employees of the above-named facilities of the Stonega Division of the Westmoreland Coal Company. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 26th day of February, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-6732 Filed 3-5-79; 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

[Application No. D-988]

EMPLOYEES' PROFIT SHARING PLAN

Proposed Exemption for Certain Transactions Involving ABC Freight Corp.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the ABC Freight Forwarding Corporation Employees Profit Sharing Plan and Trust (the Plan) of the stock of Paramount Freight Handling, Inc. and Paramount Freight Handling of North Carolina, Inc. to the ABC Freight Forwarding Corporation (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 13, 1979.

ADDRESS: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-988. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Frederic G. Burke of the Department of Labor, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) and 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, under Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) effective December 31, 1978, the authority of the Secretary of the Treasury to issue rulings and exemptions under section 4975 of the Code has been, with certain exceptions not here relevant, transferred to the Secretary of Labor.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan qualified under Section 401(a) of the Code. The Employer permanently discontinued all contributions to the Plan as of December 11, 1973. A favorable determination letter from the Internal Revenue Service was issued with respect to such termination on August 27, 1974. The Plan's trust fund is being liquidated by distributions made to employees upon their retirement, death or termination of employment.

2. In 1956, a major shareholder of the Employer sold to the Plan all of the issued and outstanding stock of Paramount Freight Handling, Inc. (Paramount) for a purchase price of $200,000. Paramount is a shipper's agent operating in the New York City area. In 1974, Paramount decided to expand its operations into North Carolina and Paramount of North Carolina was organized as a wholly owned subsidiary of the Plan. Paramount paid a cash dividend to the Plan that was used for the purpose of organizing Paramount of North Carolina.

3. The major portion of the earnings of Paramount and Paramount of North Carolina results from the services of two employees. These employees are also employed by subsidiaries of the Employer. Therefore, location of potential purchasers of the Paramount stock must be tempered by the possibility that these two employees would be unable or unwilling to work for two different competing organizations thus dampening the Plan's ability to sell the stock to an unrelated party on a basis favorable to the Plan.

4. During the period 1956 through 1976, inclusive, Paramount earned $918,813.65 of which $648,913.65 was distributed as dividends.

5. As of December 31, 1977, the value on the books of the Plan of the Paramount stock was $516,255.72, constituting 36.93% of the total Plan assets of $1,397,945.84.

6. The initiative for the proposed sale came from the nonshareholder Plan trustees. The price that the nonshareholder trustees have negotiated of $500,895.58 plus any increases in the net worth of the two Paramount corporations after June 30, 1977 is substantially greater than the appraised value of $400,000 given by an independent appraisal company.*

7. The trustees indicated that there is a likelihod that Paramount will lose substantial business, to a point that Paramount potentially would be unable to continue its profitable business operation, if the stock was offered to the open market. The trustees also fear that if the two key employees terminated their positions at Paramount as a result of outsiders acquiring it's business that the profitability of Paramount and Paramount of North Carolina would be diminished.

8. The non-shareholder trustees of the Plan have concluded that the need

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* An addendum to the appraisal indicates that the $400,000 appraised value would not be higher if the Paramount stock were purchased by the Employer.

of the Plan for liquidity and the nature of the business of Paramount and Paramount of North Carolina require the Plan to sell it's stockholdings in Paramount and Paramount of North Carolina in the event that a disposition of such stock on a basis favorable to the Plan could be arranged.

NOTICE TO INTERESTED PARTIES

All Plan participants and beneficiaries will be notified by letter containing a copy of the notice of pendency of the proposed exemption as published in the FEDERAL REGISTER. Such notification will be distributed to all participants in the Plan, including terminated employees and beneficiaries, either by personal delivery or by first class mail no later than 21 days after notice of pendency is published in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficaries;

(2) The proposed exemption; if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of Paramount and Paramount of North Carolina stock by the Plan to the Employer for an amount not less than the greater of either $516,255 or the fair market value at the time of sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of February, 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-6597 Filed 3-5-79; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

HUMANITIES PANEL

Meeting

MARCH 1, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: March 21 and 22, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1023.
Purpose: To review applications submitted to the Public Library Program for projects beginning after July 1, 1979.

2. Date: March 26 and 27, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1979.

3. Date: March 28 and 29, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Division of Public Programs applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1979.

4. Date: March 29 and 30, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.
Purpose: To review Youth Projects applications submitted to the National Endowment for the Humanities for projects beginning after August 1, 1979.

5. Date: April 3 and 4, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1979.

6. Date: April 5 and 6, 1979.
Time: 8 a.m. to 6 a.m.
Room 807.
Purpose: To review public media applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after July 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 79-6740 Filed 3-5-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

APPLICATIONS FOR LICENSES TO IMPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day February 22, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

IMPORT LICENSE APPLICATIONS SOURCE AND SPECIAL NUCLEAR MATERIAL IN KILOGRAMS

Name of applicant, date of application, date received, application number	Material type	Total element	Total isotope	End-use	Country of origin
Exxon Nuclear Co., Inc., 01/22/79, 01/26/79, ISNM79004.	5% enriched uranium	27,000	1,350	Recovery of scrap	West Germany.
Exxon Nuclear Co., Inc., 01/25/79, 01/29/79, ISNM79005.	3.1% enriched uranium	40,000	1,240	Fabrication of nuclear fuel	U.S.S.R.
Westinghouse Elect. Corp., 02/01/79, 02/05/79, ISNM79006.	3.30% enriched uranium	92,281	3,046	Re-export to Ringhals III and IV.	Sweden.
Edlow International Corp., 02/07/79, 02/09/79, ISNM79007.	85.22% enriched uranium.	115	98	Irradiated fuel being returned for reprocessing.	Japan.

[FR Doc. 79-6507 Filed 3-5-79; 8:45 am]

[7590-01-M]

[Docket No. 50-237]

COMMONWEALTH EDISON CO.

Proposed Issuance of Amendment to Provisional Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-19 issued to Commonwealth Edison Company (the licensee), for operation of the Dresden Nuclear Power Station, Unit 2, located in Grundy County, Illinois.

The amendment would revise the provisions in the Technical Specifications relating to the use of 8 x 8R type fuel assemblies for Reload 4, Cycle 7, in accordance with the licensee's application for amendment dated January 15, 1979.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 5, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including

the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis L. Ziemann: petitioner's name and telephone number; date petition was mailed; plant name, and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to John W. Rowe, Esquire, Isham, Lincoln and Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 15, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Bethesda, Md., this 26th day of February, 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-6510 Filed 3-56-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3 (the facility), located in Oconee County, South Carolina.

The amendments would revise the provisions in the Station's common Technical Specifications to permit the expansion of the spent fuel storage capacity at the Oconee Units 1 and 2 common pool from 336 to 750 storage locations, in accordance with the licensee's application for amendments dated February 2, 1979.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By April 5, 1979, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interests in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition, without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to the matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (In Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Oconee); and (publication date and page number of this FEDERAL REGISTER Notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William L. Porter, Duke Power Company, P.O. Box 2178, 422 South

Church Street, Charlotte, North Carolina, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated February 2, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina.

Dated at Bethesda, Md. this 16th day of February 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-6509 Filed 3-5-79; 8:45 am]

[7590-01-M]

[Docket No. 50-241]

MISSISSIPPI STATE UNIVERSITY

Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination of Provisional Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of orders authorizing Mississippi State University (the licensee) to dispose of the stored component parts of a 100 watt homogeneous research reactor, formerly possessed and operated by North Carolina State University, in accordance with the plan set out in the licensee's application dated February 6, 1978, and to terminate the construction permit. These components are possessed and stored by the licensee on its campus at Mississippi State, Mississippi, Under Provisional Construction Permit No. CPRR-91.

Prior to issuance of any orders, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By March 21, 1979, the licensee may file a request for a hearing with respect to issuance of the subject orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Mississippi State University); and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated February 6, 1978, as supplemented March 10, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md., this 16th day of February 1979.

For the Nuclear Regulatory Commission,

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-6508; Filed 3-5-79; 8:45 am]

[7590-01-M]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS & ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-29, issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised the license and Technical Specifications for operation of the Quad Cities Nuclear Power Station Unit No. 1 (the facility) located in Rock Island County, Illinois. The amendment is effective as of its date of issuance.

This amendment (1) authorizes operation using 192 assemblies of replacement 8x8R fuel, (2) incorporates revised MCPR limits in response to the plant specific analysis for Reload 4 and (3) modifies License Condition 3.C to revise the end-of-cycle coastdown limits that are appropriate to the analyzed conditions for core Reload 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 20, 1978, as supplemented December 15, 1978, and February 14, 1979, (2) Amendment No. 50 to License No. DPR-29, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504 17th Street, Moline, Illinois 61265. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23d day of February 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-6645 Filed 3-5-79; 8:45 am]

[7590-01-M]

DRAFT REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulate accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, RS 807-5, is entitled "Personnel Selection and Training," and is intended for Division 1, "Power Reactors." It is a proposed Revision 2 to Regulatory Guide 1.8, and describes a method for complying with the Commission's regulations with regard to the qualifications of nuclear power plant personnel. The proposed revision will endorse ANSI/ANS 3.1-1978, "Selection and Training of Nuclear Power Plant Personnel."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft, value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by April 23, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C 552(a))

Dated at Rockville, Maryland this 26th day of February 1979.

For the Nuclear Regulatory Commission.

GUY A. ARLOTTO,
Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-6647 Filed 3-5-79; 8:45 am]

[7590-01-M]

[Docket No. 50-244]

ROCHESTER GAS & ELECTRIC CORP.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation (the licensee), which amended the license and its appended Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (the facility) located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment adds license conditions relating to the completion of facility modifications for fire protection and the implementation of administrative controls, and modifies the Technical Specifications to require additional fire hose stations to be operable in the turbine building, a yard hydrant loop to be operable, and surveillance for the diesel fire pump.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are

set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the license's submittals dated February 24, 1977, May 15, 1978, June 9, 1978, June 26, 1978, September 1, 1978, September 22, 1978, October 18, 1978 and October 31, 1978, (2) Amendment No. 24 to License No. DPR-18, including the Commission's letter of transmittal, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of February 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-6646 Filed 3-5-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC79-2]

EXPRESS MAIL METRO SERVICE, 1978

Hearing Schedule

MARCH 1, 1979.

Notice is hereby given that pursuant to the "Presiding Officer's Notice Of Extension Of Deadline For Completion Of Discovery And Of Final Procedural Schedule", dated March 1, 1979, the attached schedule has been adopted as the final hearing schedule in this proceeding. This schedule supersedes the tentative schedule distributed during the Prehearing Conference held on January 31, 1979, and the tentative schedule included as Attachment B to Commission's Order No. 232, published in the FEDERAL REGISTER on January 17, 1979 (44 FR 3595-3596).

A copy of the Presiding Officer's Notice is available to all interested parties in the Commission's Docket Room at the Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C., or by calling the Docket Room at area code 202-254-3800.

DAVID F. HARRIS,
Secretary.

(Promulgated 3-1-79)

FINAL HEARING SCHEDULE FOR PROCEEDINGS—DOCKET MC79-2

Month/Date/Year	
1-31-79	Prehearing Conference.
4-10-79	Completion of all discovery directed to the Postal Service.
5-04-79	Filing of the case-in-chief of each participant (including that of OOC).
5-14-79	Beginning of hearings, *i.e.*, cross-examination of the Postal Service's case-in-chief.
5-18-79	Completion of evidentiary hearings as to the Service's case-in-chief.
6-25-79	Completion of all discovery directed to the intervenors.
7-17-79	Beginning of evidentiary hearings as to the case-in-chief of each participant.
8-13-79	Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)
8-27-79	Beginning of evidentiary hearings on rebuttal evidence.
8-31-79	Close of evidentiary record.
9-28-79	Initial briefs filed.
10-10-79	Reply briefs filed.
10-18-79	Oral argument (if scheduled).

[FR Doc. 79-6629 Filed 3-5-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10603; (812-4421)]

ALLIANCE CAPITAL RESERVES, INC.

Filing of Application Pursuant to Section 6(c) of the Act for Order of Exemption From Rules 2a-4 and 22c-1 Under the Act

Notice is hereby given that Alliance Capital Reserves, Inc. ("Applicant") 140 Broadway, New York, New York 10005, February 26, 1979, registered under the Investment Company Act of 1940 ("Act") as an open end, diversified management investment company, filed an application on January 12, 1979, and an amendment thereto on February 26, 1979, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund," designed as an investment vehicle for investors with temporary cash balances or cash reserves, and that its investment objectives are, in the following order of priority, safety of principal, excellent liquidity and maximum current income to the extent consistent with the first two objectives. Applicant states that Alliance Capital Management Corporation, a wholly-owned subsidiary of Donaldson, Lufkin & Jenrette, Inc., acts as investment adviser to Applicant and that at December 31, 1978, Applicant had net assets of $60,439,892.

Applicant represents that its investments and related management policies have the following characteristics:

1. Applicant may not purchase any security which has a maturity date more than one year from the date of Applicant's purchase.

2. Applicant's portfolio may be invested in the following money market instruments: (i) obligations of or guaranteed by the United States of America, its agencies or instrumentalities; (ii) certificates of deposit, bankers' acceptances and interest-bearing savings deposits of banks having total assets of more than $1 billion and which are members of the Federal Deposit Insurance Corporation; (iii) commercial paper, including variable amount master demand notes, rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investors Service, Inc. or, if not rated, then issued by companies which have an outstanding dept issue rated AAA or AA by Standard & Poor's, or Aaa or Aa by Moody's; and (iv) repurchase agreements pertaining to the foregoing securities provided that such agreements are limited to transactions with financial institutions believed by the investment adviser to present minimal credit risks.

3. Portfolio instruments with 60 days or less remaining to maturity are valued on an amortized cost basis; other instruments are valued by "marking to market".

4. Applicant's net income, which is determined and declared as a dividend each day, includes unrealized gains and losses on portfolio instruments. Applicant's price per share for purposes of sales and redemptions remains constant at $1.00.

Applicant represents that it expects that if the exemption requested is granted permitting Applicant to round off its net asset value to the nearest one cent on a one dollar value per share, it would immediately change its policy as to calculation of net income so as to exclude unrealized gains and losses from net income. Applicant states that by so doing, the amounts

of its daily net income dividends to shareholders would become relatively steady and consistent because they would be unaffected by fluctuations in the market prices of portfolio securities. Applicant states that while unrealized gains and losses would then be reflected in the determination of net asset value, Applicant's price per share for purposes of sales and redemptions should continue to remain constant at $1.00 because of the rounding off of its net asset value to the nearest one cent on a per share value of one dollar.

Applicant asserts that such valuation practices will benefit Applicant and its shareholders. Applicant is designed for institutional and individual investors who seek safety of principal, excellent liquidity, a stable value of $1.00 per share and a steady flow of current income. Applicant states that its Board of Directors has determined in good faith that the stable per share and the steady flow of investment income resulting from the foregoing policies will be of benefit to existing shareholders and helpful in attracting new shareholders to Applicant. All such investors, Applicant states, will continue to have the convenience of readily determining the aggregate value of their holdings simply by knowing the number of shares they own at the $1.00 per share value and the convenience of maintaining investment records that do not require periodic adjustments for nominal capital gains and losses. In addition, Applicant states that its Board of Directors has determined that investment decisions by many of the investors for which Applicant is designed, principally fiduciaries, will be facilitated by Applicant's steady flow of current income.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission issued on interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer the public a stable $1.00 price for their shares and a steady flow of income and that experience has shown that such funds provide a useful investment vehicle for the investors they serve. Applicant states that its request for exemption is made based upon its present policies and the planned change in determination of net income, and Applicant has agreed that, in order to attempt to assure the stability of its price per share, the order it seeks may be conditioned upon the following:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of sales and redemptions, rounded to the nearest cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will invest in a portfolio of money market instruments, including repurchase agreements, consisting exclusively of those securities in which it presently may invest pursuant to its investment policies as set forth hereinabove.

NOTICE IS FURTHER GIVEN that any interested person may, not later than March 22, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-6669 Filed 3-5-79; 8:45 am]

[8010-01-M]

[Rel. No. 10604; (812-4413)]

ALLIANCE GOVERNMENT RESERVES, INC.

Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From Rules 2a-4 and 22c-1 Thereunder

FEBRUARY 26, 1979.

Notice is hereby given that Alliance Government Reserves, Inc. ("Applicant"), 140 Broadway, New York, New York 10005, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 27, 1978, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its price per share, for the purposes of sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-

9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it proposes to operate as a "money market fund" investing in marketable obligations of the United States, its agencies and instrumentalities. Applicant states that it is designed as an investment vehicle for investors with temporary cash balances or cash reserves, and that its investment objectives, in the following order of priority, are: safety of principal, excellent liquidity, and maximum current income to the extent consistent with the first two objectives. It also states that Manufacturers Hanover Trust Company will act as investment adviser to Applicant and that Alliance Capital Management Corporation ("Management"), a wholly-owned subsidiary of Donaldson, Lufkin & Jenrette, Inc., will act as Applicant's administrator and distributor.

Applicant states that at the present time it has only one director, who is affiliated with Management, and that when the full board of directors has been elected, including a majority of persons who are not "interested" persons of Applicant, the application, including the representations and undertakings contained therein, will be submitted for their ratification.

According to the application, Applicant's investments and related management policies will have the following characteristics:

1. Applicant's portfolio will be invested exclusively in marketable obligations of or guaranteed by the Government of the United States of America, its agencies or instrumentalities and repurchase agreements pertaining to such securities limited to transactions with financial institutions believed by the adviser to present minimum credit risks.

2. Investments will be made only in instruments having a remaining maturity of one year or less.

3. Applicant may seek to improve portfolio income by selling certain portfolio securities prior to maturity in order to take advantage of yield disparities that occur in money markets.

4. Contingent upon the granting of the exemption requested, net asset value per share will be computed, for purposes of daily pricing, to the nearest one percent (one cent on a per share net asset value of one dollar). Applicant states that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission as set forth in IC-9786.

Applicant asserts that Management has determined from its experience that these policies will benefit Applicant and its shareholders. Applicant is designed for institutional and individual investors who seek safety of principal, excellent liquidity and a steady flow of current income. Applicant argues that these investors believe that the daily income declared by the money market funds in which they invest should reflect income as earned and that the sales and redemption prices should not change. Applicant represents that its sole director has determined in good faith that the stability of capital and steady flow of investment income resulting from the foregoing policies will be helpful in attracting potential investors in Applicant and will provide such investors substantial benefit. Applicant states that such investors will have the convenience of being able to determine the aggregate value of their holdings simply by knowing the number of shares they own at the $1.00 per share value and the task of maintaining an investment record will be made easier than if nominal capital gains and losses were realized upon redemption. The application also states that the making of investment decisions by many of the investors for which Applicant is designed, principally fiduciaries, will be facilitated by virtue of Applicant's steady flow of current income.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered investment company. In IC-9786 the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off", calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have that effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuaton as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer the public a steady $1.00 price for their shares and experience has shown that such funds provide a useful investment vehicle for the investors they serve. Applicant states that its request for exemption is based upon its policies, and Applicant has agreed that, in order to attempt to assure the stability of its price per share, the order it seeks may be conditioned upon the following:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of sales and redemptions, rounded to the nearest cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will invest in a portfolio of money market instruments consisting exclusively of marketable securities issued or guaranteed by the Government of the United States of America or its agencies or instrumentalities and repurchase agreements pertaining to such securities limited to transactions with financial institutions believed by the adviser to present minimum credit risks.

NOTICE IS FURTHER GIVEN that any interested person may, not later than March 23, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such serv-

ice (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-6670 Filed 3-5-79; 8:45 am]

[8010-01-M]

[Rel. No. 20935; (70-6142)]

COLUMBIA GAS SYSTEM, INC., ET AL.

Proposed Issuance and Sale of Subsidiary Common Stock to Parent

FEBRUARY 26, 1979.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., 340—17th Street, Ashland, Kentucky 41101; Columbia Coal Gasification Corporation, Columbia Gas Development Corporation, Columbia LNG Corporation, and Columbia Gas Development of Canada Ltd., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(b), 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 50(a)(3) promulgated thereunder, regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order in this proceeding dated April 28, 1978 (HCAR No. 20523), the Commission, among other things, authorized Columbia Gas Development of Canada Ltd. ("Development Canada") to issue and sell its common stock to Columbia prior to April 1, 1979 for a maximum aggregate purchase price of $6,500,000.

Development Canada is now seeking authorization to issue and sell to Columbia an additional 280,000 shares of its common stock at $25 per share for an aggregate maximum price $7,000,000. It is stated that the issuance and sale of additional common stock is necessitated by a decrease of approximately $5,000,000 in the operating revenues projected in the original filing and by a $4,000,000 increase in the capital expenditures estimated for 1978. The decrease in the projected operating revenues resulted from delays in the completion of and gas sales from certain production projects. The increased capital expenditures for 1978 resulted from Development Canada's undertaking of additional exploration projects and were unanticipated at the time of the original filing. The financing requirements associated with the additional capital expenditures have been reduced by the receipt of approximately $2,000,000 as a result of the allocation of Federal tax liability for 1977 in such a manner that the consolidated tax savings attributable to Development Canada's operating losses were remitted to it to partially finance its projects. (See HCAR No. 20427, March 2, 1978.)

It is requested that the issuance of the common stock by Development Canada be excepted from the competitive bidding requirements of Rule 50 by reason of paragraph (a)(3) thereof since the acquisition by Columbia of the common stock will have been approved by this Commission pursuant to Section 10 of the Act.

The fees and expenses to be incurred in connection with this post-effective amendment are estimated at $2,000, including charges for service of Columbia Gas System Service Corporation estimated at $1,800.

In all other respects, the proposed transactions remain the same. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 22, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-6671 Filed 3-5-79; 8:45 am]

[8010-01-M]

[Rel. No. 20936; (70-6107)]

COLUMBIA GAS SYSTEM, INC., ET AL.

Supplemental Order Relating to Allocation of Consolidated Tax Liability for Taxable Year 1978 by Method Other Than Prescribed by Rule 45(b)(6)

FEBRUARY 27, 1979.

In the matter of The Columbia Gas System, Inc., Wilmington, Delaware; Columbia Gas Transmission Corporation, Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., Columbia LNG Corporation, Columbia Gas Development of Canada Ltd., Columbia Coal Gasification Corporation, Columbia Gas Development Corporation, Columbia Gas System Service Corporation, Columbia Gulf Transmission Company, and Columbia Alaskan Gas Transmission Corporation.

By order dated February 2, 1979 in this proceeding, the Commission authorized the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary com-

panies named above, to allocate the system's consolidated federal income tax liability for 1978 by a method other than prescribed in Rule 45(b)(6), promulgated under Section 12 of the Public Utility Holding Company Act of 1935 ("Act"). That order stated that the tax loss for 1978 for Development U.S. and Development Canada was estimated to be $8,795,799 and $4,583,040, respectively.

The companies have filed a post-effective amendment in this proceeding informing the Commission that Development U.S.'s management decided at year-end 1978 to recognize certain tax losses in offshore exploration properties and amending the record to reflect these losses. The companies now estimate that Development U.S. and Development Canada will have a tax loss of $17,799,000 and $3,946,000, respectively, for 1978.

Upon the basis of the facts in the record, amended as above indicated, it is hereby found that the applicable standards of the Act and the rules thereunder are satisfied and that no adverse findings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that the jurisdiction heretofore reserved be released:

IT IS ORDERED, pursuant to the applicable provisions of the Act and rules thereunder, that said declaration, as amended, be and it hereby is permitted to become effective forthwith.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-6672 Filed 3-5-79; 8:45 am]

[8010-01-M]

[Rel. No. 15590; File No. 1-6884]

PACIFIC RESOURCES, INC., COMMON STOCK, NO PAR VALUE

Order Amending Effective Date of Withdrawal From Listing and Registration and Extending the Exemption of Certain Persons and Securities From the Provisions of Rule 17a-15

FEBRUARY 27, 1979.

On June 22, 1977 we approved the application of Pacific Resources, Inc. ("PRI") to withdraw its securities from listing and registration on the Pacific Stock Exchange Incorporated ("PSE").[1] We prescribed as a term of that delisting that it not become effectve until the time of our determination with respect to the PSE's application for unlisted trading privileges in PRI common stock, but in no event later than 120 days after June 22, 1977.[2] We have amended, several times, the date upon which PRI's withdrawal from listing and registration on the PSE becomes effective; the last scheduled effective date was February 2, 1979.[3]

We found that the initial delay in the effective date of the delisting and the extension until February 2, 1979 were necessary principally because a temporary disruption in trading in PRI stock on the PSE would result in a lessening of potential competition among dealers and between exchange markets and markets other than exchange markets during any interim period after delisting, but before unlisted trading privileges are (if at all) granted.[4]

Our ultimate determination on the PSE application for unlisted trading privileges in PRI stock involves the consideration of several major policy issues including, among others, whether sufficient progress has been made toward the development of a national market system to satisfy the standards of Section 12(f)(2), whether the progress contemplated by Congress in adopting that Section is met by PSE's rescission of its off-board trading rules as they apply to transactions PRI common stock, whether that progress and the statutory goals of eliminating unnecessary burdens on competition are satisfied by existing communications facilities and provisions for access between the PSE and over-the-counter ("OTC") markets, and whether last sale reporting of all PRI stock transactions would be appropriated should unlisted trading privileges be granted.

We have not yet resolved these issues insofar as they arise with respect to our consideration of the PSE application for unlisted trading privileges and, accordingly, we have been unable to complete our deliberations concerning the hearing on that application. We believe, however, that the purposes of the Act, particularly those which encourage competition among dealers acting as market makers in a security and between markets in that security,[5] make it appropriate for us to permit the existing competition in PRI stock to continue during the interim period necessary for us to concluding our deliberations. Accordingly, for the principal reason enunciated in the June 22 delisting order, and as stated above, we find it necessary to extend until August 2, 1979 the effective date of removal of PRI stock from listing and registration on the PSE.

PRI stock has been traded both on the PSE and OTC since issuance of our June 22 order.[6] At that time we also exempted, for a period of up to 120 days, the National Association of Securities Dealers, Inc. ("NASD") and all brokers and dealers from the reporting requirements of Rule 17a-15 under the Securities Exchange Act of 1934 relating to last sale reports of OTC transactions in the common stock of PRI. The duration of that exemption was amended in our extension orders to February 2, 1979. Until we make a determination of the PSE's application for unlisted trading privileges in PRI stock, we believe that there will be uncertainty as to whether real-time reporting in PRI stock will be required as a general matter and that a continued exemption from Rule 17a-15 is approximately.[7] We continue to believe that it is not necessary in the public interest or for the protection of investors to require members of the PSE, (who may trade PRI stock in the OTC market) and other brokers and dealers to develop and implement reporting procedures for transactions in this single security during the time before we make a determination as to the PSE's application. Accordingly, we have determined to, and hereby exempt, until August 2, 1979, the NASD and all brokers and dealers from the requirements of Rule 17a-15 relating to last sale reports of OTC transactions in the common stock of PRI.[8]

Through inadvertence, the Commission failed to consider this matter before the previous extension of the

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[1] *See* Securities Exchange Act Release No. 13657 (June 22, 1977); 42 F.R. 33398 (June 30, 1977).

[2] The PSE filed an application, pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934, for unlisted trading privileges in PRI stock on March 25, 1977 in response to PRI's application to withdraw that security from listing and registration on the PSE (filed March 23, 1977). Concurrently with our order withdrawing PRI stock from listing, we ordered a hearing on the PSE application. *See* Securities Exchange Act Release No. 13658 (June 22, 1977); 42 F.R. 33402 (June 30, 1977).

[3] *See* Securities Exchange Act Release No. 15030 (August 3, 1978).

[4] In addition, we had noted that if delisting were effective immediately, new extension of margin credit would be prohibited until the security was admitted to the List of OTC Margin Stocks issued periodically by the Board of Governors of the Federal Reserve System. PRI common stock was so admitted on October 2, 1978.

[5] *See e.g.*, Section 11A(a)(1)(C)(ii).

[6] The PSE has exempted from its off-board trading restrictions securities, such as PRI stock, which are both the subject of a delisting application and in which the PSE has applied for unlisted trading privileges. *See* Securities Exchange Act Release No. 13656 (June 22, 1977); 42 F.R. 33400 (June 30, 1977).

[7] If the unlisted trading privileges application of the PSE is denied, PRI stock will be traded solely OTC and, therefore, will not be subject to current reporting under Rule 17a-15.

[8] This exemption does not prohibit those persons individually from complying voluntarily with Rule 17a-15 as long as such broker or dealer complies with the Rule in a uniform and consistent manner.

effective date of the withdrawal order and the related exemption from Rule 17a-15 had expired.

Accordingly, it is hereby ordered, *nunc pro tunc*, that our order of June 22, 1977, as amended, granting PRI's application to withdraw from listing and registration on the PSE be, and it hereby is, amended as set forth herein effective February 2, 1979.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-6673 Filed 3-2-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0211]

ENERGY ASSETS, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Energy Assets, Inc., 1800 South Tower, Pennzoil Place, Houston, Texas 77002, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholder are as follows:

Matthew R. Simmons, 2240 Sunset Blvd., Houston, Texas 77005, President, Director.
Laurence E. Simmons, 3711 San Felipe, Houston, Texas 77027, Executive Vice President, Director.
Nicholas L. Swyka, 1930 Addison, Houston, Texas 77030, Secretary, Treasurer, Director.
Simmons & Company International 1800 South Tower, Pennzoil Place, Houston, Texas 77002, 100 percent, Shareholder.

There is to be only one class of stock with 1,000,000 shares of common stock authorized. Simmons & Company International (SCI) will own initially all the issued and outstanding stock. SCI is a closely held corporation. The persons owning ten percent or more of SCI and their respective ownership interests are: Matthew R. Simmons (42 percent), Laurence E. Simmons (33 percent) and R. Michael Huffington (13 percent).

The Applicant Licensee proposes to commerce operations with private capital of $500,000. Applicant proposes to conduct its operations principally in the State of Texas.

The Applicant intends to emphasize, as much as is practicable, equity investments in companies which provide support services, supplies and equipment to the energy related industry.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment companies.)

Dated: February 15, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-6617 Filed 3-5-79; 8:45 am]

[8025-01-M]

[License No. 04/04-5151]

JETS VENTURE CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On November 21, 1978, a notice was published in FEDERAL REGISTER (43 FR 45662) stating that Jets Venture Capital Corporation, located at 2721 Park Street, Jacksonville, Florida 32205, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business December 6, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04-5151 to Jets Venture Capital Corporation on February 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 15, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-6616 Filed 3-5-79; 8:45 am]

[8025-01-M]

OFFICE OF THE CHIEF COUNSEL FOR ADVOCACY

Hearing

Pursuant to statutory authority set forth in Section 634(d) of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator A. Vernon Weaver, will conduct public hearings in Boston, Massachusetts, on March 14, 1979, on Small Fuel Oil Dealers' Price and Supply Problems. The hearings will convene at 10:00 a.m. (E.S.T.) at Faneuil Hall in Boston.

The Office of the Chief Counsel for Advocacy will consider the adequacy of current Federal assistance and regulations to small fuel oil dealers and Federal policy to promote competition in this field and assure the public of adequate fuel supplies.

Participants will include small fuel oil dealers, pertinent trade association representatives, executives of major oil companies, and concerned government officials.

The hearing is open to the public. Any member of the public may make a verbal statement, but must file a written statement prior to the hearing. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during or after the hearings. All communications or inquiries regarding these hearings should be addressed to:

Jere W. Glover, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, N.W., Room 219, Washington, D.C. 20416 (202) 653-6303, or John McNally, Small Business Administration, 60 Batterymarch Street, Boston, Massachusetts 02110, (617) 223-4495.

MILTON D. STEWART,
Chief Counsel for Advocacy.

FEBRUARY 27, 1979.

[FR Doc. 79-6618 Filed 3-5-79; 8:45 am]

[8025-01-M]

REGION IV ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 10:00 a.m. on Friday,

March 23, 1979, at The Greystone Restaurant, 304 Greystone Boulevard, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Vern F. Amick, District Director, U.S. Small Business Administration, 1801 Assembly Street, Columbia, South Carolina 29201, (803) 765-5373.

Dated: February 23, 1979.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-6640 Filed 3-5-79; 8:45 am]

[8025-01-M]

REGION VI ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, Louisiana, will hold a public meeting at 9:00 a.m. on Friday, April 6, 1979, at the International Trade Mart Building, Number 2 Canal Street, New Orleans, Louisiana, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Robert J. Crochet, U.S. Small Business Administration, 1001 Howard Avenue New Orleans, Louisiana 70113, (504) 589-2354.

Dated: February 23, 1979.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-6641 Filed 3-5-79; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/163]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on subdivision, stability and load lines of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on March 20, 1979, in Room 8236, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

Discuss the agenda for the forthcoming 23rd IMCO Session of the Subcommittee on Subdivision, Stability and Load Lines and its contents;

Discuss alternatives to an international recommendation for subdivision for cargo ships; and,

Discuss change in the International Load Line Convention.

Requests for further information should be directed to Mr. William A. Cleary, Jr., United States Coast Guard (G-MMT-5/82), 400 Seventh Street, S.W., Washington, D.C. 20590, telephone number (202) 426-1345.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Deputy Director, Office of Maritime Affairs.

FEBRUARY 23, 1979.

[FR Doc. 79-6615 Filed 3-5-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 11-Notice 3]

EMERGENCY ORDER LIMITING MOVEMENT OF HAZARDOUS MATERIALS

On February 7, 1979, the Federal Railroad Administration (FRA) issued Emergency Order No. 11 placing certain restrictions on the movement of railroad freight cars containing materials required to be placarded in accordance with DOT regulations, 49 CFR Parts 170-189 (placarded hazardous materials cars), by the Louisville and Nashville Railroad Company (L&N), and by other railroads over L&N owned or leased track (44 FR 8402). That Order was subsequently amended on February 16, 1979 (44 FR 10559).

Under the authority of 45 U.S.C. 432 and 49 CFR 211.47, the L&N has requested an administrative hearing on Emergency Order No. 11, and has further requested a prehearing conference before the Administrative Law Judge assigned to hear this matter.

A prehearing conference on this matter will be held on March 7, 1979, at 9:30 a.m., in a hearing room to be announced, at the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20462. Administrative Law Judge Samuel Kanell will preside at the prehearing conference and at the administrative hearing on Emergency Order No. 11, which will commence on March 14, 1979, at 1:30 p.m., in a hearing room to be announced, at the Federal Energy Regulatory Commission.

Further information concerning this matter may be obtained by contacting Kenneth Gradia, Office of Chief Counsel, Federal Railroad Administration (202-426-8220) or Judge Kanell (202-275-3934).

Issued in Washington, D.C. on March 5, 1979.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 79-6493 Filed 3-5-79 10:43 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

FERROALLOYS FROM SPAIN

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: A satisfactory petition has been received and a countervailing duty investigation has been started to determine if benefits are paid by the government of Spain to exporters of certain ferroalloys which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than June 12, 1979, and a final determination not later than December 12, 1979.

EFFECTIVE DATE: March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, Operations Officer, Office of Operations, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on December 12, 1978, from counsel for the Ferroalloys Association, alleging that benefits conferred by the Government of Spain upon the exportation of certain ferroalloys from Spain constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The ferroalloys specified in the petition and subject to this investigation, along with their appropriate item number in the Tariff Schedules of the United States Annotated (TSUSA), include Ferrochrome (over 3 percent carbon), TSUSA 607.3100; ferromanganese (1-4 percent carbon), TSUSA 607.3600; ferromanganese (over 4 percent carbon), TSUSA 607.3700; ferrosil-icon manganese, TSUSA 607.5700; and ferrosilicon (60-80 percent silicon) TSUSA 607.5100. All of these products are dutiable.

Alleged bounties or grants as listed in the petition include the following:

1. Excessive remission of indirect taxes (Desgravacion Fiscal).

2. Tax-free export investment reserve. Exporters may transfer as much as 50 percent of the export profits to a tax-free investment reserve, which may be used to invest in export-related assets in Spain or to support export offices and promotion activities abroad.

3. Regional development tax incentives. Special tax incentives and cash subsidies are granted for undertaking industrial projects in certain designated areas.

4. Several preferential credit programs available for a variety of purposes, such as construction loans, operating capital loans, short-term prefinancing loans, deferred payment loans, commercial services loans, exporter's card and foreign buyer loans.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such a petition.

Therefore, a preliminary determination on this petition will be made no later than June 12, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Spain upon the exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended. A final determination will be issued no later than December 12, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

FEBRUARY 28, 1979.

[FR Doc. 79-6649 Filed 3-5-79; 8:45 am]

[4810-22-M]

PRIVACY ACT OF 1974

Personnel Verification System

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Proposed new system of records.

SUMMARY: This notice is an advice to the public that the United States Customs Service proposes to establish a new system of records on individuals called the Personnel Verification System which is subject to reporting and notice requirements of the Privacy Act of 1974 (5 U.S.C. 552a). The purpose of this notice is to give the public 30 days to comment on the proposed uses of the system described.

The Personnel Verification System is designed to protect against any unauthorized usage of the service provided by Regional Communication Centers (RCC's). The system contains the names and other individual identifiers of all Customs and non-Customs personnel authorized usage of the RCC's. RCC personnel will use the Personnel Verification System to establish positive identity of the requester.

EFFECTIVE DATE: The Personnel Verification System is effective after the 30 day comment period required for the new system. The proposed date is April 23, 1979, to include the 60 day advance notice for the Office of Management and Budget.

ADDRESS: Comments should be addressed to the Assistant Commissioner (Enforcement Support), U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Linda Hartford, Entry Procedures and Penalties Division, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202) 566-8681.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The purpose of the Personnel Verification System is to protect against unauthorized use of service provided by Customs Regional Communication Centers. The RCC's role is one of supporting the interception and investigation of law enforcement functions by providing communications services, information, and emergency assistance to authorized users. Operators are on duty 24 hours a day and provide this support as an integral part of the enforcement activity of each region.

The Personnel Verification System contains the names and other individual identifiers of all Customs and non-Customs personnel authorized use of the RCC's. Non-Customs personnel include employees of oher Federal agencies and employees of state and local agencies who have a need for the services of the RCC in the performance of their duties.

Authorized network users contact the RCC's to request services, assistance, and information from the Treasury Enforcement Communications System and other enforcement data base information. Personnel at the RCC verify the identity of the requester by reference to the Personnel Verification System. After positive identity is established, the requested services, assistance, and information will be provided in accordance with established Standard Operating Procedures.

DRAFTING INFORMATION

The principal author of this notice is Linda Hartford, Entry Procedures and Penalties Division, Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in its development, both on matters of substance and style.

Dated: February 22, 1979.

W. J. MCDONALD,
Acting Assistant Secretary (Administration).

Treasury/Customs 00.284

System name:

Personnel Verification System (PVS).

System location:

Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and Regional Offices of the U.S. Customs Service. See Customs Appendix A.

Categories of individuals covered by the system:

Authorized Customs personnel and non-Customs personnel who have received authorization to use the Regional Communications Centers.

Categories of records in the system:

Individual identifiers including but not limited to name, office address, home address, office telephone number, home telephone number, badge number, social security number, radio call sign, page number, organization, and unit.

Authority for maintenance of the system:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) Used by U.S. Customs to verify the identity of individuals authorized to use the sector communications network; (b) Used by U.S. Customs management to evaluate system usage and effectiveness by individual, organization and unit; (c) Used to contact personnel for messages, assignments, etc.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

(1) Alphabetic or numerical listings or card files; (2) microfiche; (3) magnetic disc and tapes; (4) other electronic storage media.

Retrievability:

By name, call sign, paging number, social security number, badge number, organizational code.

Safeguards:

Records are located in controlled access areas with alarm protection systems. Offices are staffed twenty-four hours a day, seven days a week.

Retention and disposal:

Records are maintained in the system until such time as the individual is no longer authorized usage of the Regional Communications Center. Disposal is by erasure of disc/tapes, shredding and/or burning of listings or card files, and burning of microfiche.

System manager(s) and address:

Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure:

See Customs Appendix A.

Record access procedures:

See Customs Appendix A.

Contesting record procedures:

See Access, Customs Appendix A.

Record source categories:

The sources include but are not limited to (1) the individual to whom the record relates; (2) internal Customs Service records: (3) Personnel Verification Sheet.

[FR Doc. 79-6623 Filed 3-5-79; 8:45 am]

[4880-01-M]

Internal Revenue Service

TAX BASE FOR EXCISE TAX—TRUCK PARTS OR ACCESSORIES, SPORTING GOODS, FIREARMS INDUSTRIES

Determination of Constructive Sale Price on Retail Sales

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of proposal to publish constructive sale price percentages for automotive parts or accessories, sporting goods, and firearms industries.

SUMMARY: For the guidance of taxpayers and others, the Internal Revenue Service proposes to publish percentages of retail sale prices to be used as constructive sale prices where manufacturers, producers, and importers sell at retail automotive parts or accessories, sporting goods, and firearms. Therefore, the Internal Revenue Service would appreciate information comparing prices at which taxable automotive parts or accessories, fishing equipment, bows and arrows and firearms are sold at retail with the highest prices of such articles sold to wholesale distributors in the ordinary course of trade. Where no sales to wholesale distributors are made then the comparison at retail would be with the lowest price to dealers in the ordinary course of trade.

DATE: Written comments should be mailed or delivered by April 30, 1979.

ADDRESS: Written comments should be mailed or delivered to Chief, Wage, Excise and Administrative Provisions Branch (T:I:WEA), Internal Revenue Service, room 5203, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Baer, room 5203, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-4606 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

Dated: February 28, 1979.

JOHN L. WITHERS,
Assistant Commissioner, Technical.

[Fr Doc. 79-6580 Filed 3-5-79; 8:45 am]

[4810-25-M]

Office of the Secretary

CLASS LIFE ASSET DEPRECTATION RANGE SYSTEM: NOTICE OF STUDY OF TELECOMMUNICATIONS ASSETS

The Office of Industrial Economics (OIE), of the office of the Secretary of the Treasury, has initiated a study of guideline depreciation periods and repair allowance percentages for telecommunications assets currently covered by asset guideline classes 48.11 through 48.45. [Revenue Procedure 77-10, I.R.B. 1977-12 (3/21/77)], under the Class Life Asset Depreciation Range System (Secs. 167(m) and 263(e)), Internal Revenue Code of 1954.

All persons interested in this study may submit comments in writing to OIE. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on march 29, 1979 at which information needs and procedures for obtaining and analyzing the requisite information will be discussd. The agenda for the meeting and exact time and place may be obtained by writing to OIE.

All communication concerning this study should be addressed to:

Office of Industrial Economics, Project 48, P.O. Box 28018, Washington, D.C. 20005.

Dated: March 1, 1979.

Approved by:

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc. 79-6643 Filed 3-5-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 34]

ASSIGNMENT OF HEARINGS

MARCH 1, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignements only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124211 (Sub-326F), Hilt Truck Line, Inc., now assigned for hearing on May 15, 1979 (1 day), at Los Angeles, California, in a hearing room to be later designated.
MC 145399 (Sub-2F), Shay Distributing Co., Inc., now assigned for hearing on May 16, 1979 (1 day), at Los Angeles, California, in a hearing room to be later designated.
MC 145399f, Shay Distributing Co., Inc., MC 145399 (Sub-1F), Shay Distributing Co., Inc., now assigned for hearing on May 17, 1979 (2 days), at Los Angeles, California, in a hearing room to be later designated.
MC 144675 (Sub-1F), Lincoln Freight Forwarding Corp., now assigned for hearing on May 21, 1979 (1 day), at Los Angeles, California, in a hearing room to be later designated.
MC 144259 (Sub-2F), Jennaro Lines, Inc., now assigned for hearing on May 22, 1979 (1 day), at Los Angeles, California, in a hearing room to be later designated.
MC 22301 (Sub-26F), Sioux Transportation Company, Inc., now assigned March 12, 1979, at Sioux Falls, South Dakota, is postponed to May 29, 1979 (9 days), at Sioux Falls, South Dakota, in a hearing room to be later designated.
MC 114457 (Sub-412F), Dart Transit Company, a corporation, now assigned for hearing on March 12, 1979, at Philadelphia, Pennsylvania, and will be held in Room 2609, U.S. Courthouse, 601 Market Street.
MC 21866 (Sub-107F), West Motor Freight, Inc., now assigned for hearing on March 14, 1979, at Philadelphia Pennsylvania, and will be held in Room 2609, U.S. Courthouse, 601 Market Street.
MC 124821 (Sub-26), William Gilchrist, now assigned for hearing on March 15, 1979, at Philadelphia, Pennsylvania, and will be held in Room 2609, U.S. Courthouse, 601 Market Street.
MC 124920 (Sub-14), La Bar's Inc., now assigned for hearing on March 15, 1979, at Philadelphia, Pennsylvania, and will be held in Room 2609, U.S. Courthouse, 601 Market Street.
MC 145034F, Sky Trucking Co., now assigned for hearing on May 23, 1979 (3 days), at Los Angeles, California, in a hearing room to be later designated.
I&S M 22930, Small Shipment Rate Revision—Eastern Central Territory, all procedural dates, including hearing date of April 17, 1979, at Washington, D.C., are *postponed indefinitely.*
MC 1441124 (Sub-21F), Evangelist Commercial Corporation, now assigned for hearing on March 13, 1979 (1 day), at Philadelphia, Pennsylvania, is postponed indefinitely.
MC-C 10166, North American Van Lines, Inc., Molloy Bros. Trucking Inc., Aero Mayflower Transit Company, Inc., Dahill Moving & Storage Co., Inc., Paramount Moving & Storage Co., Inc., and Red Ball Van Lines, Inc.—Investigation and Revocation of Certificates, now assigned for hearing on March 13, 1979, at New York, NY, and will be held in Room F-2222, Federal Building, 26 Federal Plaza.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6700 Filed 3-5-79; 8:45 am]

[7035-01-M]

[Notice No. 35]

ASSIGNMENT OF HEARINGS

MARCH 1, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.[1]

CORRECTION

MC 110988 (Sub-375), Schneider Tank Lines, Inc., now being assigned for Prehearing Conference on March 27, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6697 Filed 3-5-79; 8:45 am]

[7035-01-M]

[Notice No. 36]

ASSIGNMENT OF HEARINGS

MARCH 1, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.[1]

CORRECTION

MC 142887 (Sub-1), New England Bulk Terminal, Inc., now assigned for hearing on April 24, 1979 (1 day), at Boston, Massachusetts, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6696 Filed 3-5-79;8:45 am]

[1]In FEDERAL REGISTER publication of February 28, 1979, Prehearing Conference was erroneously omitted.
[1]This notice corrects the date of the hearing from April 2, 1979, to April 24, 1979.

[7035-01-M]

[Notice No. 37]

ASSIGNMENT OF HEARINGS

MARCH 1, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.[1]

CORRECTION

MC 59457 (Sub-38F), Sorensen Transportation Company, Inc., now assigned for Prehearing Conference on March 20, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6698 Filed 3-5-79; 8:45 am]

[7035-01-M]

[Notice No. 33 TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 26, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness

[1]This proceeding is being held for Prehearing Conference instead of hearing.

and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 76 (Sub-9TA), filed January 18, 1979. Applicant: MAWSON & MAWSON, INC., Rt. 213, P.O. Box 248, Langhorne, PA 19047. Representative: Robert W. Flowers (same address as applicant). *Iron and steel articles,* from Burns Harbor, IN to points in OH, PA and the Lower Peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corp., Bethlehem, PA 18016. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 21866 (Sub-112TA), filed January 29, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Materials, parts and supplies* used in the manufacture of printing presses, from points in IL, IN and WI to the facilities of Graphic Systems, Div. of Rockwell International Corp. at Wyomissing (Berks County), PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Graphic Systems, Div. of Rockwell International Corp., P.O. Box 1382, Reading, PA 19603. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 41064 (Sub-5TA), filed January 10, 1979. Applicant: KENT EXPRESS, INC., Railroad and Gaff P.O. Box 60, Aurora, IN 47001. Representative: Edward R. Kirk, 85 East Gay Street, Columbus, OH 43215. *Salt, in bags,* from Cincinnati, OH to points in IN on and east of U.S. Route 231 and south of U.S. Route 24, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Salt Company, 110 N. Wacker Dr., Chicago, IL 60606. Send protests to: Beverly J. Williams, Trans. Asst., I.C.C., Rm. 429, 46 E. Ohio St., Indianapolis, IN 46204.

MC 47583 (Sub-82TA), filed February 12, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. *Canned and preserved foodstuffs* (except commodities in bulk) from the Facilities of Heinz USA at or near Muscatine, IA, to the facilities of Heinz USA at Grand Prairie, TX. Restricted to traffic originating at the named facilities and destined to the named destination points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 52460 (Sub-233TA), filed February 9, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Such commodities as are dealt in by wholesale and retail stores and grocery houses* (except commodities in bulk), from the facilities of Procter & Gamble, at St. Louis, MO, to points in KS and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52460 (Sub-234TA), filed February 12, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa OK 74107. Representative: Michael A. Calvert (same address as applicant). *Such merchandise as is sold and used by wholesale, retail and discount stores,* from AL, FL, GA, LA, MS, NC, SC, TN, & TX, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Ft. Smith, and Searcy, AR, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 55822 (Sub-18TA), filed February 12, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *Contract carrier:* irregular routes: *Avertising matter, magazine periodicals and equipment, materials and supplies used in the publishing business (except commodities in bulk),* between Dayton, OH; Brookfield and Pewaukee, WI; Jonesboro, Arkansas, Lancaster, PA; Strasburg, VA; Old Saybrook and Bristol, CT; Los Angeles, CA; and Chicago, IL, on the one hand, and, on the other, points in the United States (except AK and HI). RESTRICTED to service from and to the facilities of or utilized by Newsweek, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newsweek, Inc., William A. Anderson, Director of Distribution, 2219 McCall St., Dayton, OH 45402. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 59117 (Sub-65TA), filed February 9, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fly ash,* in bulk, from Gentry, AR, to points in IA, IL, KS, KY, LA, MS, MO, NE, NM, OK, and TN, for 180 days. Supporting shipper(s): Gifford-Hill & Co., Inc., Ash Products Division, Box 47127, Dallas, TX 75247. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 73165 (Sub-462TA), filed January 31, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd Street, North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. *Iron and steel aritiicles,* from Kansas City, MO and its commercial zone to AR, AL, LA, TN, MS, GA, FL, NC, and SC. (Restricted to traffic originating at the facilities of Butler Manufacturing Company), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Butler Manufacturing Company, 7400 East 13th Street, Kansas City, MO 64126. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 105782 (Sub-11TA), filed February 5, 1979. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Representative: James E. Wharton, Attorney at Law, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. *Bananas* from Tampa, FL to IL, WI, MI, IN, OH, PA, NC, SC and NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Turbana Corporation, P.O. Box 5432, Tampa, FL 33605. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Build-

ing, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC107403 (Sub-1165TA), filed January 30, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Nitric acid*, in bulk in tank vehicles, from Finney, OH to Hudson, WI; Midland, Warren & Romulus, MI; Pekin & Joliet, IL; St. Louis, MO; Carrollton & Louisville, KY; Erwin & Nashville, TN; Asheville & Henderson, NC; Brackenridge, West Leechburg & Midland, PA and points in IN, MN, AL and SC, for 180 days. Supporting shipper(s): Kaiser Agricultural Chemicals, P.O. Box 246, Savannah, GA 31402. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC111401 (Sub-545TA), filed February 12, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum and petroleum products*, in bulk, in tank vehicles, from Kansas City, KS, to points in SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC113499 (Sub-6TA), filed January 29, 1979. Applicant: EDWARD M. RUDE CARRIER CORP., R.F.D. No. 1, Falling Waters, WV 25419. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Glass*, from Clarksburg and Jerry Run (Taylor County), WV, to points in NJ (except points within 25 miles of Philadelphia, PA, and points within the commercial zone of New York City, NY) and NY (except points within the commercial zone of New York City, NY), for 180 days. Supporting shipper(s): ASG Industries, Inc., P.O. Box 929, Kingsport, TN 37662. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC113784 (Sub-74TA), filed January 31, 1979. Applicant: LAIDLAW TRANSPORT, LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (same address as applicant). *Soda Ash in bulk in tank*, from the International Boundary line between the United States and Canada located on the Detroit and St. Clair Rivers to St. Clair, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Crystal Salt Company, 916 South Riverside Ave., St. Clair, MI. Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 113784 (Sub-75TA), filed January 31, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (same address as applicant). *Cement in bags*, between ports of entry on the International boundary line located on the Niagara River and points in New York lying on and west of Highway #14, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canada Cement La Farge Limited, 240 Duncan Mill Road Don Mills, Ontario, Canada. Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 114194 (Sub-212TA), filed February 9, 1979. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Illinois 62201. Representative: Donald D. Metzler (same as above). *Animal fats*, in bulk, in tank vehicles, from the facilities of Swift & Co., at Rochelle, IL., to Indiana for 180 days. (Representative points—Terre Haute, Indianapolis, Evansville, Gary). Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 115826 (Sub-395TA), filed February 6, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats, meat products, meat by-products* and articles distributed by meat packinghouses (except commodities in bulk), from Denver, CO and its commercial zone to points in ME, for 180 days. An underlying 90 day ETA has been filed. Supporting shipper(s): Gold Star Meat Co., 4810 Newport, Commerce City, CO 80022. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, Colorado 80202.

MC 116254 (Sub-247TA), filed January 31, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). *Dry plastics*, in bulk, in tank vehicles, from the facilities of Monsanto Company, at Decatur, AL, to points in IL, MD, MA, MI, MS, MO, NH, OH, PA and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-248TA), filed January 31, 1979. Applicant: CHEM-HAULERS, INC., 118 E. Mobile Plaza, Florence, AL 35630. Representative: William H. Shawn, 1730 M. Street, NW, Washington, DC 20036. *Potash muriate, potash sulfate and potassium nitrate*, (in bulk in dump vehicles), from Baltimore, MD, to points in DE, NJ, NY, OH, PA, VA, and WV, for 180 days. An underlying ETA seeks 90 days Authority. Supporting shipper(s): H. J. Baker & Bro., Inc., 360 Lexington Avenue, New York, NY 10017. Send protests to: Mabel E. Holston, Transportation Assistant, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116328 (Sub-1TA), filed January 30, 1979. Applicant: CROSS & MURRAY, INC., 710 Third Avenue North, Minneapolis, MN 55403. Representative: William E. Fox, 4200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402. *Edible corn syrup, liquid sugar and blends thereof, in bulk, in tank vehicles*, from Cedar Rapids, IA to Fargo, ND, Sioux Falls, SD and points and places in MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Archer Daniels Midland Company, P.O. Box 1470, Decatur, IL 62525. Send protests to: Delores A. Poe, Transportation Asst., ICC, 414 Federal Bldg and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 117344 (Sub-281TA), filed February 9, 1979. Applicant: THE MAXWELL CO., 10380 Evandale Dr., Cincinnati, OH 45215. Representative: John C. Spencer (same as applicant). *Dry chemicals, in bulk, in tank or hopper type vehicles*, from Batavia, OH, to Mount Vernon, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Emery Industries, Inc., Victor E. LaPorte, Traffic Supervisor, 1300 Carew Tower, Cincinnati, OH 45202. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 119632 (Sub-84TA), filed January 30, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *Foodstuffs*, (except in bulk, and foodstuffs transported in vehicles equipped with mechanical refrigeration), Between Napoleon, OH on the one hand, and points in IL, IN, KY, MI, and NJ on the other; restricted to traffic originating or destined to the facilities of Campbell Soup Co. at Napoleon, OH, for 180 days. Supporting shipper(s):

Campbell Soup Company, East Maumee Ave., Napoleon, OH 43545. Send protests to: Mrs. Mary E. Wehner, Transportation Specialist, 731 Federal-Bldg., 1240 E. Ninth St., Cleveland, OH 44199.

MC 119789 (Sub-548TA), filed January 25, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (Same as above). *Drugs, medicines and related displays* from New Brunswick, South Plainfield, North Brunswick, and Somerset, NJ to La Mirada, CA for 180 days. Underlying ETA filed for 90 day authority. Supporting Shipper(s): E. R. Squibb & Sons, Inc., 5 Georges Road, New Brunswick, NJ 08903. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 121664 (Sub-53TA), filed January 31, 1979. Applicant: HORNADY TRUCK LINE, P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35201. *Cement,* from the facilities of Martin Marietta Cement, Southern Division, at Atlanta, GA, to the facilities of Martin Marietta Cement, Southern Division, at or near Birmingham, AL and Roberta, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Martin Marietta Cement, Southern Division, 18th Floor Daniel Bldg., Birmingham, AL 35203. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 124078 (Sub-940TA), filed February 9, 1979. Applicant: SCHWERMAN TRUCKING COMPANY, 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (Same address as applicant). *Barite, in bulk, in tank vehicles,* from Houston, TX to points in LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): IMCO Services, P.O. Box 22605, Houston, TX 77027. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124511 (Sub-54TA), filed February 12, 1979. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, Missouri 65265. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Illinois 60603. *Iron and Steel Articles* from the facilities of Interlake, Inc. at Chicago, IL to Centralia, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Interlake, Inc., 135th St. & Perry Ave., Chicago, Illinois 60627. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 124673 (Sub-28TA), filed January 31, 1979. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Gail P. Johnson (Same as above). *Corn gluten meal,* in bulk, in specialized trailers other than pneumatic, from Dimmitt, TX to the plantsite of Ralston Purina Company near Flagstaff, AZ, for 180 days. An underlying ETA seeking up to 90 days authority was filed. Supporting Shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Burean of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 124801 (Sub-6TA), filed January 25, 1979. Applicant: ROY AYERS, R. D. No. 2—Box 113, Clarks Summit, PA 18411. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Meat scraps,* from Pittston Township, PA, to Waverly, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): (1) Douglas Food Service Co., P.O. Box 71, Johnson City, NY 13790. (2) Pennsylvania Hide & Rendering Co., P.O. Box 127, Avoca, PA 18641. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 125533 (Sub-33TA), filed January 16, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Aluminum articles, alumimum products, and equipment and supplies used in the manufacture, sale, processing, distribution and installation thereof* (a) between Oswego, NY and points in NJ, PA, MD, WV, OH, MI, IN, IL, WI, MO, and IA; (b) between Woodbridge, NJ and points in PA, WV, OH, and MI; and (c) between Fairmont, WV and points in PA, OH, MI, IN, IL, WI, IA, MO, and KY, for 180 days. Supporting Shipper(s): Alcan Aluminum Corporation, P.O. Box 6977, Cleveland, OH 44101. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 126477 (Sub-5TA), filed January 22, 1979. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC., P.O. Box 9313, Baer Field, Fort Wayne, IN 46809. Representative: Bruce O. Boxberger, Suite 200, Metro Bldg., Fort Wayne, IN 46802. *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), from Baer Field Municipal Airport at Fort Wayne, IN, to the Detroit Metropolitan Airport at Romulus, MI and the return, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Delta Airlines, Baer Field, Fort Wayne, IN 46809. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 46 E. Ohio St., Room 429, Indianapolis, IN 46204.

MC 128555 (Sub-28TA), filed January 30, 1979. Applicant: MEAT DISPATCH, INC., 2103 17th Street, East, Palmetto, FL 33561. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier*—Irregular route: Such commodities as are dealt in by wholesale and retail department stores, and materials, supplies and equipment used in the conduct of such business between vendor locations, warehouses, distribution centers, stores and customers in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, ME, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and the District of Columbia, restricted to the transportation of traffic under a continuing contract or contracts with Ames Department Stores, Inc., its subsidiaries and affiliates, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ames Department Stores, Inc., 2418 Main Street, Rocky Hill, CT 06067. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace Miami, FL 33166.

MC 133541 (Sub-5TA), filed February 9, 1979. Applicant: MCKIBBEN MOTOR SERVICE, INC., 494 W. Sharon Road, Cincinnati, OH 45246. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Metal containers and container ends,* (1) from the facilities of National Can Corporation at or near Archbold, OH, to the facilities of National Can Corporation at or near Michigan City, IN, and (2) from the facilities of National Can Corporation at or near LaPorte, IN, to the facilities of National Can Corporation at or near Sharonville, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): National Can Corporation, Floyd C. Stone, Midwest Area Traffic Manager, 8101 W. Higgins Rd., Chicago, IL 60631. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 134405 (Sub-61TA), filed February 12, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representa-

tive: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fuel oil,* in bulk, in tank vehicles, from Ardmore, OK to Wichita, Colwich and Strauss, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Deal Petroleum Company, P.O. Box 7038, Suite 817, 2815 East Skelly Drive, Tulsa, OK 74105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135170 (Sub-32TA), filed February 2, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract carrier:* irregular routes: *Paper and plastic bags and plastic film or sheeting,* from New Philadelphia, PH to Philadelphia, PA., for the account of Great Plains Bag Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Great Plains Bag Corp., 2127 Reiser, New Philadelphia, OH 44663. Send protests to: W. L. Hughes, DS, Interstate Commerce Commission, 1025 Federal Building, Baltimore, Md 21201.

MC 135705 (Sub-12TA), filed January 30, 1979. Applicant: MELROSE TRUCKING CO., INC., 2671 South Robertson Road, Casper, WY 82601. Representative: Kim I. Melrose (same address as applicant). (1) *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products; and (2) *Machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in CO, ID, AZ, WY, UT, NV, MT, ND and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are thirteen shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 136782 (Sub-9TA), filed January 30, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 S. LaSalle, St., Suite 1600, Chicago, IL 60603. *General Commodities, except those of unusual value, Classes, A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment,* from New York City, NY; Wilmington, DE; Philadelphia, PA; Trenton and Camden, NJ to Pittsburgh, PA and points in Butler County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sampo Sales, 2600 Frazier Street, Pittsburgh, PA 15213, Witco Chemical Corp., Box 336, Petrolia, PA 16050. A & W Foods Inc., 4900 Crayton Ave., Cleveland, OH 44104. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 138104 (Sub-64TA), filed January 29, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Building and construction materials,* (except commodities in bulk), from the facilities of Celotex Corporation, at or near, Texarkana, AR to points in CO and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Celotex Corporation, P.O. Box 22602, Tampa, FL 33622. Send protests to: Robert J. Kirspel, DS, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 138469 (Sub-106TA), filed February 12, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Materials, equipment and supplies used in the production of kitchen cabinets* (except commodities in bulk), from Eufaula, AL, Nappanee, IN, Louisville, KY, and Jackson, TN, and points in the respective commercial zones of the named cities, to Lodi, CA and points in its commercial zone, for 180 days. Supporting Shipper(s): Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138701 (Sub-1TA), filed January 5, 1979. Applicant: G.D. & K., INC., Compton Road, Inman, SC 29349. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Disposable hospital devices and supplies, monitoring electrodes and materials, equipment and supplies used in the manufacturing thereof,* (except commodities in bulk) between Dayton, OH, Spartanburg, SC, and Jacksonville, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): NDM Corporation, P.O. Box 1408, Dayton, OH 45401. Send protests to: E. E. Strotheid, ICC, Room 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 139962 (Sub-2TA), filed January 30, 1979. Applicant: North East Express, Inc., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Contract* carrier: irregular routes: *Plastic bags and plastic film,* from West Hazleton, PA, to Atlanta, GA, Birmingham, AL, Berwyn, IL, Dallas, TX, Denver, CO, Macon, GA, Minneapolis, MN, Portland, OR, Richmond, CA, Seattle, WA, Shreveport, LA, and Tampa, FL, for 180 days. Supporting shipper(s): St. Regis Paper Company, 150 East 42nd St., New York, NY 10017. Send protests to: P. J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503.

MC 140166 (Sub-10TA), filed January 18, 1979. Applicant: JOHN B. MCNABB, d/b/a McNabb Farms, P.O. Box 4366, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" Street, Idaho Falls, ID 83401. *Animal and poultry feed and feed ingredients,* between Pocatello, ID, on the one hand, and, on the other, Klamath and Lake Counties in OR, and Modoc, Siskiyou, Shasta, Lassen, Tehama, Sutter and San Joaquin Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Co., 835 S. 8th St., St. Louis, MO 63188. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 141195 (Sub-9TA), filed January 30, 1979. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 394, Malvern, AR 72104. Representative: Thomas W. Bartholomew (Same as applicant). *Contract carrier:* irregular routes: *Polystryrene trays* from the facilities of Western Foam Pak, Inc. at Oelwein, IA, to all points in the United States excluding AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Foam Pak, Inc., 951 2nd Ave. S.E., Oelwein, IA 50662. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141384 (Sub-3TA), filed January 15, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Contract carrier:* irregular routes: *Meat, Meat Products and Meat By-Products, as described in Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C.*

209 and 766 (except commodities in bulk, in tank or hopper type vehicles), between points in CO and the Seattle, WA Commercial Zone on the one hand, and on the other, points in WA, OR, ID and MT, for the account of Boxed Meats of America, for 180 days. Supporting shipper(s): Boxed Meats of America, Inc., 620 S. Andover, St., Seattle, WA 98108. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 141450 (Sub-8TA), filed January 26, 1979. Applicant: OLIN WOOTEN, d/b/a WOOTEN TRANSPORT COMPANY, P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier:* irregular routes: *(1) Containers and Container Parts and (2) Materials and Supplies used in the manufacture of containers and container parts* (1) from Homerville, GA to points in the United States in and east of TX, OK, KS, NE, SD, and ND (except ME, VT, NH, and MA) and (2) from points in the United States in and east of TX, OK, KS, NE, SD and ND (except ME, VT, NH, and MA) to Homerville, GA, for 180 days. Supporting shipper(s): Standard Container, P.O. Box 336, Homerville, GA 31634. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 141804 (Sub-172TA), filed February 1, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Automotive Parts, Accessories and Supplies,* from Nashville, TN to points in AZ, CA, CO, ID, NV, OR, TX, UT, and WA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Paul R. Price, Holley Carburetor, Division Colt Industries, P.O. Box 749, Warren, MI 48090. Send protests to: Irene Carlos, TA, Interstate Commerce Commission, 300 North Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 141804 (Sub-173TA), filed February 1, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Motor Vehicle Parts and Accessories and Machinery Parts,* (A) from Detroit, Warren and Benton Harbor, MI; Toledo, OH; Milwaukee, WI; and Woodstock and Chicago, IL to Bowling Green, KY; Paris, TN and Water Valley MS; (B) from Nashville, TN to points in the United States in and west of ND, SD, KS, NE, OK, and TX (except AK and HI), (C) From Long Beach, CA to Bowling Green, KY and Nashville, TN for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Paul R. Price, Holley Carburetor, Division Colt Industries, P.O. Box 749, Warren, MI 48090. Send protests to: Irene Carlos, TA, Interstate Commerce Commission, 300 North Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 142305 (Sub-2TA), filed January 31, 1979. Applicant: WISCONSIN EXPRESS LINES, INC., Route 2, Green Bay, WI 54301. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; *Cheese* from Blanchardville, Green Bay, Lena and Portage, WI to Houston and Lubbock, TX under a continuing contract with Topco Assoc., Inc., from 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., 7711 Gross Point) Road, Skokie, IL 60067. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 142935 (Sub-2TA), filed February 2, 1979. Applicant: PLASTIC EXPRESS, 2999 La Jolla Street, Anaheim, CA 92806. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Roofing and building materials, except in bulk,* from the plantsite or storage facilities utilized by the GAF Corporation, Building Materials Divison, located at or near Denver, CO to points in CA for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): GAF Corporation, Building Materials Division, P.O. Box 1768, Long Beach, CA 90801. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 143059 (Sub-53TA), filed January 31, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 35610. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, Ky. 40202. *Steel and steel products,* from Auburn and Buffalo, NY; Chicago, IL; Cleveland, Marion and Toledo, OH; Kokomo, IN; Knoxville, TN; Mt. Airy, NC; Butler, IN; and Steelton, PA, to points in IL, IN, IA, MI, MN, MO, KA, KY, NE, NY, OH, PA, TN, WV, and WI for 180 days. Restricted to the transportation of traffic originating at the facilities of Ambassador Steel Corp. at or near Kokomo, and Butler, IN; Cleveland, OH and Chicago, IL, or from the suppliers of Ambassador Steel Corp. Supporting shipper(s): Ryan L. Hoover, Secretary-Treasurer, Ambassador Steel Corp., 3415 S. LaFountain St., Kokomo, IN 46901. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 143552 (Sub-7TA), filed January 30, 1979. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Street, Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier; irregular routes; *Paper* and *Paper Products,* From Marseilles, IL to Beacon, NY under a continung contract or contracts with Nabisco, Inc., East Hanover, NJ for 180 days. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: Joel Morrows, DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 143790 (Sub-8TA), filed January 23, 1979. Applicant: FEDERAL FREIGHT SYSTEM, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Plumbing materials and supplies and materials used in the manufacture and distribution of plumbing materials* (except commodities in bulk), between Mansfield and Shelby, OH, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, TX, OK, KS, NE and CO, for 180 days. Supporting shipper(s): Artesian Industries, 201 East Fifth Street, Mansfield, OH 44902; U-Brand Corporation, 815 Clark Street, Ashland, OH 44805. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 144026 (Sub-3TA), filed January 25, 1979. Applicant: WILLIAMS CARTAGE COMPNAY, INC., P.O. Box 897, Hartsville, SC 29550. Representative: R. L. McGeorge, 1054 Thirty-first Street, N.W., Washington, DC 20007. *Contract carrier:* irregular routes: *Lumber products,* for the account of Sonoco Products Company, at or near Mont Clare, SC to points in the states of NC, VA, GA and TN, for 180 days. Supporting shipper(s): Sonoco Products Company, 1 North Second Street, Hartsville, SC 29550. Send protests to: E. E. Strotheid, DS, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.

MC 144075 (Sub-4TA), filed January 18, 1979. Applicant: INDUSTRIAL TRANSPORT, INC., 2301 East 65th Street, Cleveland, OH 44104. Representative: Brian S. Stern, Esq., 2425 Wilson Boulevard, Arlington, VA 22201. *Aluminum* and *aluminum articles* from the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV, to points in AL, AR, CT, DE, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO,

NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corporation, P.O. Box 98, Ravenswood, WV 26164. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 144193 (Sub-2TA), filed January 17, 1979. Applicant: WILLIAM E. HIBBITT and DAVID MACAULEY, d.b.a. LAWRENCE MOVING & STORAGE COMPANY, 4725 S. Valley View, Las Vegas, NV 89109. Representative: William E. Hibbitt (same address as applicant). *Used household goods,* for the account of the USAF, through the base procurement division, irregular routes, between points in Clark and Lincoln Counties, NV and those points in Nye County, NV south of U.S. Highway 6. Restriction: Traffic with prior or subsequent movement in containers, further restricted to pickup and delivery service in connection with packing, crating, and containerization of traffic, or the reverse, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beulah Hillhouse, Contracting Officer, USAF, P.O. Box 9712, Nellis AFB, NV 89191. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 144330 (Sub-49TA), filed January 29, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Lumber, Plywood and particleboard* from points in AR and Memphis, TN, and its commercial zone to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. G. Buehl Company, Post Office Box 25123, Salt Lake City, UT 84125. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144503 (Sub-9TA), filed February 1, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box "F," Forest Park, Georgia 30050. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, Nebraska, 68106. *Frozen boxed meat* from the facilities of Coast Packing Co. in Omaha, NE to points in AL, FL, GA, KY, MS, NC, SC and TN, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Coast Packing Co. of Omaha, Inc., 13838 Industrial Road, Omaha, Nebraska 68138. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Atlanta, Georgia 30309.

MC 144557 (Sub-4TA), filed January 31, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., P.O. Box 1240, 3426 N. Washington Blvd., Arlington, VA 22210. *Flour and corn meal* (except in bulk), from the facilities of Shawnee Milling Company, at or near Shawnee, OK, to Points in AL, FL, GA, LA, MS, NC, SC, TN, and KY, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Shawnee Milling Company, P.O. Box 1567, Shawnee, OK 74801. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 144630 (Sub-8TA), filed January 8, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, No. 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Mineral wool, fiber glass products, insulation materials and insulated air ducts,* from the facilities of Knauf Fiber Glass GmbH at Shelbyville, IN to points in and east of MN, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knauf Fiber Glass GmbH, Elizabeth Street, Shelbyville, IN 46176. Send protests to: Beverly J. Williams, Trans. Asst., I.C.C., Rm. 429, 46 E. Ohio St., Indianapolis, IN 46204.

MC 144672 (Sub-8TA), filed February 8, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same as applicant). *Printing paper,* from Champaign County and Montgomery County, OH, to points in AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, UT, VA, WV and WI, for 180 days. Supporting shipper(s): Howard Paper Mills, Inc., Richard E. Welsenberger, Traffic manager, P.O. Box 151, Urbana, OH 43078. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 145072 (Sub-7TA), filed January 5, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Synthetic rubber* from the facilities of Co-Polymer Products Company located at or near Baton Rouge, LA to the facilities of Pennsylvania Tire & Rubber Company located at or near Tupelo, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennsylvania Tire & Rubber Company, 515 Newman Street, Mansfield, OH 44901. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146048 (Sub-1TA), filed January 31, 1979. Applicant: LOVIS TURNER d.b.a. D. T. AUTO TRANSPORT, 231 So. Jasmine St., Denver, CO 80224. Representative: Lovis Turner (as above). *Motor vehicles in secondary movements in truckaway or driveaway service* (except towing service), (1) Between points in Colorado and (2) between points in CO and points in the U.S. (except Alaska and Hawaii) for 180 days. Underlying ETA seeking 90 days filed. Supporting shipper(s): Rosen-Novak Ford, 3625 East Colfax Ave., Denver, CO 80206; Vista Lincoln Mercury, Inc., 5000 So. Broadway, Englewood, CO 80110; Empire Oldsmobile, Inc., 6160 E. Colfax Ave., Denver, CO 80220; Tynan's Volkswagen, Inc., 700 So. Havana, Denver, CO 80012. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146065 (Sub-1TA), filed January 22, 1979. Applicant: DAY TRANSFER, INC., 3000 Shelby Street, Indianapolis, IN 46227. Representative: Kirkwood Yockey, 300 Union Federal Bldg., Indianapolis, IN 46204. *Such commodities as are dealt in by wholesale, retail, grocery and drug stores and/or warehouses* (except commodities in bulk), from Indianapolis, IN to all other points in IN. (This involves interstate traffic moved into Indianapolis, IN from out-of-state via rail or other common motor carriers), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Beverly J. Williams, Trans. Asst., I.C.C., Room 429, 46 E. Ohio St., Indianapolis, IN 46204.

MC 146076 (Sub-1TA), filed January 15, 1979. Applicant: L. K. FARMER, INC., 683 Water St., P.O. Box 1237, Meeker, CO 81641. Representative: Keith Tempel, 594 Main St., P.O. Box 1189, Meeker, CO 81641. *Contract* carrier: *Regular* routes: *COAL* from Sewanee Mine in Rio Blanco, County, CO to the rail head at Craig, CO over CO State Hwy 13 for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Northern Coal Company, 720 S. Colorado Blvd., Suite 1080, Denver, CO 80222. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146113 (Sub-1TA), filed January 29, 1979. Applicant: VANCOUVER INLAND EXPRESS, LTD., 14651 105A Ave., Surrey, B.C., Canada V4R 5X8. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Tandem axle supensions, steel leaf springs and related parts,* between Bellingham, WA on the one

hand, and, on the other, the Ports of Entry on the International Boundary line at Blaine, Lynden, or Sumas, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Canadian Kenworth Company, Division of PACCAR of Canada Ltd., 3750 Kitchener St., Burnaby, B.C., Canada V5C 3L7; White Motor Corporation, P.O. Box 91500, Cleveland, OH 44101; Freightliner of Canada Ltd., 4242 Phillips Ave., Burnaby, B.C., Canada. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 146136 (Sub-1TA), filed February 5, 1979. Applicant: T & M DISTRIBUTORS, INC., 4018-B North Graham St., Charlotte, NC 28206. Representative: Richard A. Peniston, 2007 Commonwealth Ave., Charlotte, NC 28205. *Contract* Carrier-Irregular routes: *General Commodities with the usual exceptions moving on freight forwarder bills of lading with Westransco* between NC, SC, GA, and TN, on the one hand, and, on the other, AZ, NV, UT, CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westransco Freight Company, 2102 North Tryon St., Charlotte, NC. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 146144 (Sub-TA), filed January 17, 1979. Applicant: J. W. RIGGINS, P.O. Box 2509, 561 So. York St., Denver, CO 80201. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *Materials and supplies, except in bulk, and equipment used in the manufacture and distribution of products manufactured by foundries* (1) from points in PA, OH, MI, IN, IL, WI, CA, AL, IA, WY, WA, MO, TX and OR to the facilities of Western Industrial Supply Company at or near Englewood, CO; (2) from points in PA, OH, WI, IL, MI, TX, CA to the facilities of Larson Foundry Supply at or near Salt Lake City, UT; (3) between the facilities of Western Industrial Supply Company at or near Englewood, CO to the facilities of United Western Supply Companies at or near Phoenix, AZ; El Paso, TX; Berkley, CA and Seattle, WA and the facilities of Spanish Forks Foundry at or near Spanish Forks, UT for 180 days. Supporting shipper(s): Western Industrial Supply Companies, 3117 South Platte River Drive, Englewood, CO 80110; Larsen Foundry Supply, 860 West 2600 South, Salt Lake City, UT 84119. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146155 (Sub-1TA), filed January 29, 1979. Applicant: LOUIS C. NULL TRUCKING, INC., 427 North Railroad, Argos, IN 46501. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier:* irregular routes: *Trailers, other than those designed to be drawn by passenger vehicles,* from the facilities of Copco Steel and Engineering Co. at South Bend, IN, to points in IL, MI and OH. Under contract with Copco Steel and Engineering Co. at South Bend, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Copco Steel and Engineering Co., 2901 St. Main Street, South Bend, IN 46614. Send protests to: Beverly J. williams, Transportation Asst. ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 146156 (Sub-1TA), filed January 26, 1979. Applicant: TIPPECANOE WAREHOUSING, INC., 445 Morland Drive, Lafayette, IN 47905. Representative: Richard A. Mehley, 1000 16th St., NW., Washington, DC 20036. *Such merchandise as is dealt in by wholesale and retail outlets, and merchandise in the rough which requires further assembly, manufacturing and distribution,* between Lafayette, IN on the one hand, and on the other points and places in IN, Chicago, IL, Cincinnati, OH and Louisville, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Tippecanoe Warehousing, Inc., 445 Morland Drive, Layfayette, IN 47905. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

PASSENGER APPLICATIONS

MC 143975 (Sub-1TA), filed January 24, 1979. Applicant: J & J BUS SERVICE, INC., 10 Regina Drive, Brandywine, MD 20613. Representative: Lawrence E. Lindeman, 425 13th Street, N.W., Suite 1032, Washington, D.C. 20004. *Passengers and their baggage,* between points in Anne Arundel, Howard, and Baltimore County, MD, and the city of Baltimore, MD, on the one hand, and, on the other, Washington, D.C. restricted to a transportation service provided for the Greater Baltimore Commuter Association, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Greater Baltimore Commuter Association, Baltimore, MD. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 145493 (Sub-2TA), filed January 30, 1979. Applicant: LONGVIEW LIMOUSINE SERVICE, CLARENCE E. RAY, JR. and A. E. BROWN, d.b.a., P.O. Box 8171, Longview, TX 75602. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. Common carrier, regular routes, *Passengers and baggage, when carried in the same vehicle with passengers, limited to the transportation of not more than 11 passengers in any one vehicle, excluding driver,* Between Marshall, TX and Shreveport Regional Airport, Shreveport, LA, over Interstate Hwy 20, serving no intermediate points. Restriction: Restricted to transportation of passengers and baggage having an immediate prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jackson Travel Agency, 310 S. Fredonia, Longview, TX 75601; Evan's World Travel, 401-B S. Alamo, Longview, TX; Ramada Inn of Marshall, P.O. Box 1497, Marshall, TX 75670. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 146206TA, filed January 26, 1979. Applicant: R. B. R. CORPORATION, d.b.a. CASINO LIMOUSINE, 2490 Terminal Way, Reno, NV 89502. Representative: Dennis Rayond (same as applicant). *Passengers and their baggage,* between points in Carson City, Douglas, Storey, Lyon and Washoe Counties, NV and Nevada, Alpine, El Dorado, Placer and Sierra Counties, CA, for 180 days. Supporting shipper(s): There are 22 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., Carson City, NV 89701.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6701 Filed 3-5-79; 8:45 am]

[7035-01-M]

[AB 18 (SDM) [1]]

CHESSIE SYSTEM

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System, has filed with the Commission its color-coded system diagram map in docket No. AB 18 (SDM). The map reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on January 24, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each

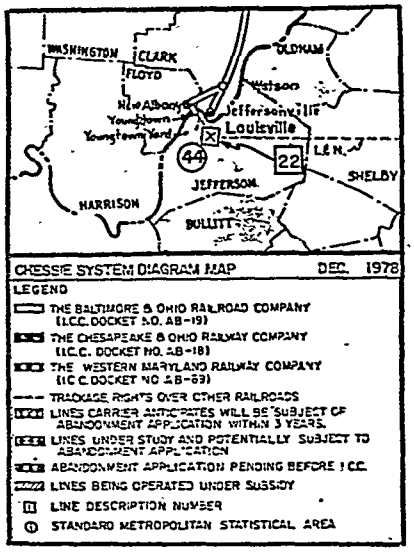
[1] AB 18 (SDM), The Chessie System includes AB 19 (SDM), The Baltimore and Ohio Railroad Company and AB 69 (SDM), The Western Maryland Railway Company.

state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 18 (SDM).

H. G. HOMME, Jr.,
Secretary.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

SYSTEM DIAGRAM MAP



In accordance with regulations of the Interstate Commerce Commission (49 CFR Part 1121), the following is a description of a line of railroad located in this county, as classified and depicted on the above map, which The Chesapeake and Ohio Railway Company anticipates will be the subject of an abandonment or discontinuance application to be filed within 3 years (Category 1):

KENTUCKY

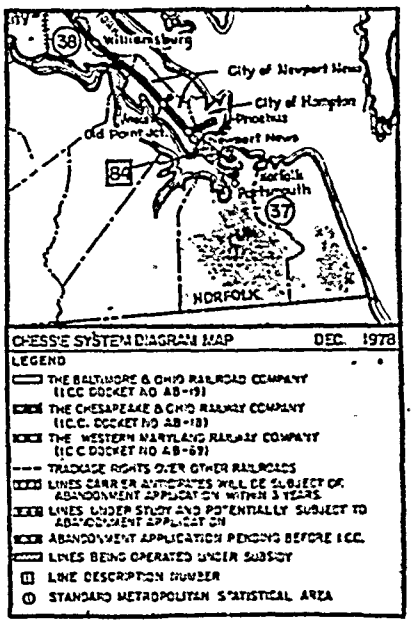
Map Code [22]

(a) Preston Street Yard.
(b) Located in Commonwealth of Kentucky.
(c) Located in Jefferson County, City of Louisville.
(d) Station 4+20 to Station 32+32 in Louisville, a distance of 0.53 mile and within the limits of Preston Street Yard.
(e) No agency station located on line.
(f) Comments: C&O will abandon operations at ConRail's Preston Street Yard and operate into and out of L&N's South Louisville and Strawberry Yards under trackage rights agreement.

A copy of the complete System Diagram Map will be made available, upon request and payment in advance of a check or money order in the amount of $5.00. Make check or money order payable to The Chesapeake and Ohio Railway Company. If requested, a copy of the above description and portion of the Chessie System Diagram Map will also be made available at no cost. Requests should be made to: The Chesapeake and Ohio Railway Company, Director of Regulatory Economics (314), One Charles Center, Baltimore, Maryland 21201.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

SYSTEM DIAGRAM MAP



In accordance with regulations of the Interstate Commerce Commission (49 CFR Part 1121), the following is a description of a line of railroad located in this county, as classified and depicted on the above map, which The Chesapeake and Ohio Railway Company anticipates will be the subject of an abandonment or discontinuance application to be filed within 3 years (Category 1):

VIRGINIA

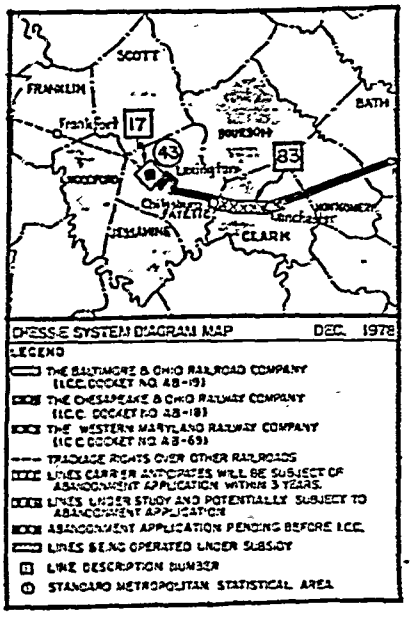
Map Code [84]

(a) Carfloat operating between Newport News and Naval Operating Base, and Newport News and connection with Norfolk Portsmouth Belt Line Railroad in Norfolk.
(b) Located in Commonwealth of Virginia.
(c) Located in the Cities of Newport News and Norfolk.
(d) Newport News to United States Naval Base, approximately 6 miles. Newport News to connection with Norfolk Portsmouth Belt Line Railroad at Sewells Point, approximately 7 miles.
(e) No station on the line. Agency at Newport News, Va. serves Newport News and Norfolk, Va.
(f) Comments: Traffic now handled by carfloat between Newport News and Norfolk will be moved over SCL between Richmond and Weldon, N.C. and between Weldon and Portsmouth under trackage rights agreement.

A copy of the complete System Diagram Map will be made available, upon request and payment in advance of a check or money order in the amount of $5.00. Make check or money order payable to The Chesapeake and Ohio Railway Company. If requested, a copy of the above description and portion of the Chessie System Diagram Map will also be made available at no cost. Requests should be made to: The Chesapeake and Ohio Railway Company, Director of Regulatory Economics (314), One Charles Center, Baltimore, Maryland 21201.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

SYSTEM DIAGRAM MAP



In accordance with regulations of the Interstate Commerce Commission (49 CFR Part 1121), the following is a description of a line of railroad located in this county, as classified and depicted on the above map, which The Chesapeake and Ohio Railway Company anticipates will be the subject of an abandonment or discontinuance application to be filed within 3 years (Category 1):

Map Code [83]

KENTUCKY

(a) Lexington Subdivision.

(b) Located in Commonwealth of Kentucky.

(c) Located in Fayette and Clark Counties.

(d) Milepost 624.39 at Winchester to Milepost 634.49 near Chilesburg, a distance of 10.1 miles.

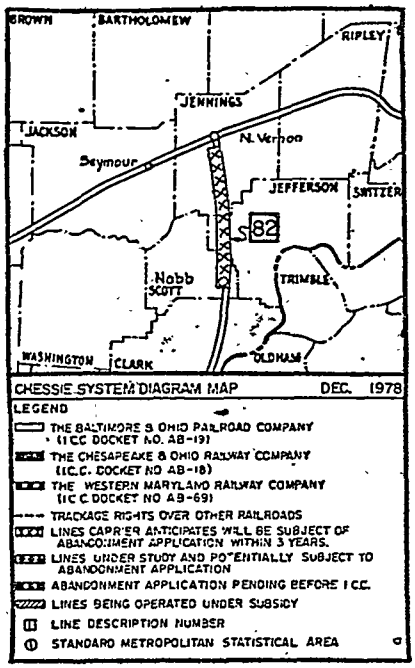
(e) Non-agency station at Pine Grove (Milepost 632.2) served by traveling agent from Winchester, Ky.

(f) Comments: C&O will operate over L&N between Winchester and Lexington under trackage rights agreements.

A copy of the complete System Diagram Map will be made available, upon request and payment in advance of a check or money order in the amount of $5.00. Make check or money order payable to The Chesapeake and Ohio Railway Company. If requested, a copy of the above description and portion of the Chessie System Diagram Map will also be made available at no cost. Requests should be made to: The Chesapeake and Ohio Railway Company, Director of Regulatory Economics (314), One Charles Center, Baltimore, Maryland 21201.

THE BALTIMORE AND OHIO RAILROAD COMPANY

SYSTEM DIAGRAM MAP



In accordance with regulations of the Interstate Commerce Commission (49 CFR Part 1121), the following is a description of a line of railroad located in this county, as classified and depicted on the above map, which The Baltimore and Ohio Railroad Company anticipates will be the subject of an abandonment or discontinuance application to be filed within 3 years (Category 1):

Map Code [82]

INDIANA

(a) Louisville Subdivision.

(b) Located in State of Indiana.

(c) Located in Jennings, Jefferson and Scott Counties.

(d) Milepost 0.35 at North Vernon to Milepost 28.52 at Nabb, a distance of 28.17 miles.

(e) No agency stations located on the line.

(f) Comments: Traffic now handled over B&O line between Cincinnati, Ohio and Louisville, Ky. (K&IT Youngstown Yard) will be moved over C&O between Cincinnati and Covington, Ky. and over L&N from Covington to Louisville (Strawberry Yard) under trackage rights agreements.

A copy of the complete System Diagram Map will be made available, upon request and payment in advance of a check or money order in the amount of $5.00. Make check or money order payable to The Baltimore and Ohio Railroad Company. If requested, a copy of the above description and portion of the Chessie System Diagram Map will also be made available at no cost. Requests should be made to: The Baltimore and Ohio Railroad Company, Director of Regulatory Economics (314), One Charles Center, Baltimore, Maryland 21201.

[FR Doc. 79-6538 Filed 3-5-79; 8:45 am]

[7035-01-M]

[AB 203 (SDM)]

MISSISSIPPIAN RAILWAY

System Diagram Map

Notice is hereby given that, pursuant to the requirement contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Mississippian Railway, has filed with the Commission its color-coded system diagram map in docket No. AB 203 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on January 16, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram was filed.

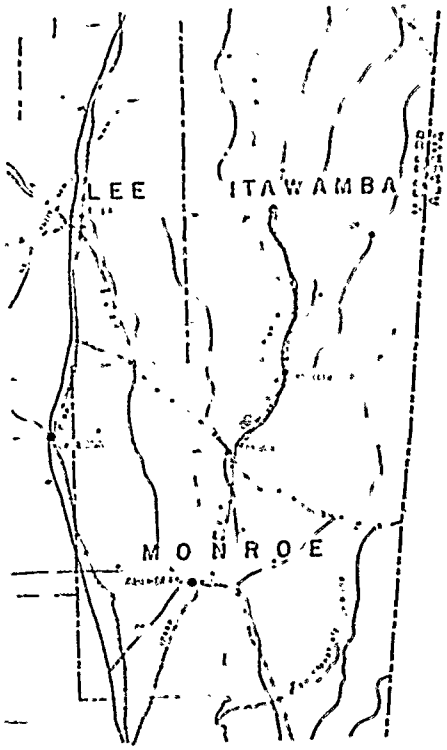
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 203 (SDM).

H. G. HOMME, Jr.,
Secretary.

DESCRIPTION OF LINE CATEGORY
1121.20(b)(1)

The systems diagram map of the Mississippian Railway attached hereto indicates the rail line which the carrier anticipates will be subject to abandonment.

The line which is designated as the Mississippian Railway Main Line is located in Monroe and Itawamba Counties of the State of Mississippi. The portion included is from the beginning of the line at Mile Post 0 to end of line at Mile Post 24. Agencies or terminal stations located on this portion of line include Amory, Mississippi at Mile Post 0 and Fulton, Mississippi at Mile Post 24.



[FR Doc. 73-6537 Filed 3-5-79; 8:45 am]

[7035-01-M]

[AB 205 (SDM)]

WASHINGTON, IDAHO AND MONTANA RAILWAY CO.

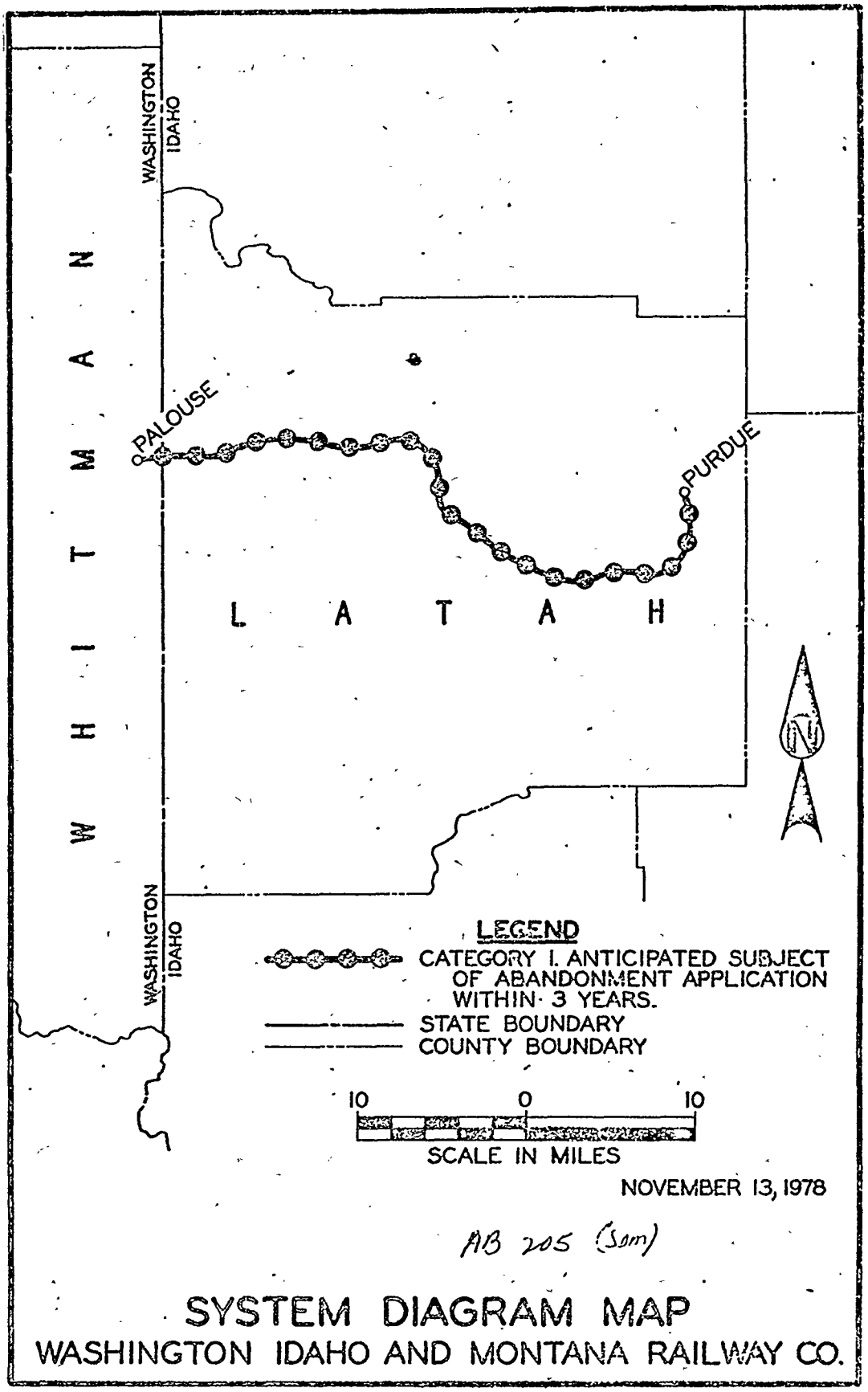
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Washington, Idaho and Montana Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB 205 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on January 26, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 205 (SDM).

H. G. HOMME, Jr.,
Secretary.

[7035-01-C]


WASHINGTON
IDAHO
WHITMAN
PALOUSE
PURDUE
L A T A H
WASHINGTON
IDAHO
LEGEND
CATEGORY I. ANTICIPATED SUBJECT OF ABANDONMENT APPLICATION WITHIN 3 YEARS.
STATE BOUNDARY
COUNTY BOUNDARY
10 0 10
SCALE IN MILES
NOVEMBER 13, 1978
AB 205 (Sub)
SYSTEM DIAGRAM MAP
WASHINGTON IDAHO AND MONTANA RAILWAY CO.

[7035-01-M]

IDAHO AND WASHINGTON

Category 1

(a) Purdue to Palouse (49.4 miles of the WI&M Railroad and related trackage).
(b) Located in the States of Idaho and Washington.
(c) Located in the Idaho County of Latah and the Washington County of Whitman.
(d) Milepost 0.0 to 49.4.
(e) Agency stations of Potlatch (Milepost 11.2) and Bovill (Milepost 47.3 included).

[FR Doc. 73-6540 Filed 3-5-79; 8:45 am]

[7035-01-M]

[AB 105 (SDM)]

WESTERN PACIFIC RAILROAD CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Western Pacific Railroad Company has filed with the Commission its color-coded system diagram map in docket No. AB 105 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on January 26, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 105 (SDM).

H. G. HOMME, Jr.,
Secretary.

THE WESTERN PACIFIC RAILROAD COMPANY SYSTEM MAP (FIRST AMENDMENT)

DESCRIPTION OF LINES IN CATEGORY 1 (49 CFR 1121.21 AND 1121.23)

In compliance with requirements of 49 CFR 1121.23 The Western Pacific Railroad Company herein amends its system diagram map and provides a description of the line identified on its system diagram map as being placed within category 1 [49 CFR 1121.20(b)(1)]. This is Western Pacific's only such line and it falls within category 1 [49 CFR 1121.20(b)(1)], a description thereof is as follows:

1. The line is designated as the Bieber-Hambone Line.
2. The line is located within the State of California.
3. The line is located within the Counties of Lassen, Modoc, and Siskiyou.
4. The line extends in a northwesterly direction from Milepost 111.808 at Engineer's Station 4868+22 on the center line of the Northern California Extension of The Western Pacific Railroad Company at Station Bieber, in the County of Lassen, for a distance of 9.035 miles along the main track of Burlington Northern to Station Lookout, in the County of Modoc, and continues along the branch line track of Burlington Northern 33.19 miles to point of connection with McCloud River Railroad 2,100 feet east of Railroad Station Hambone, in the County of Siskiyou.
5. There are no agency or terminal stations on the line.

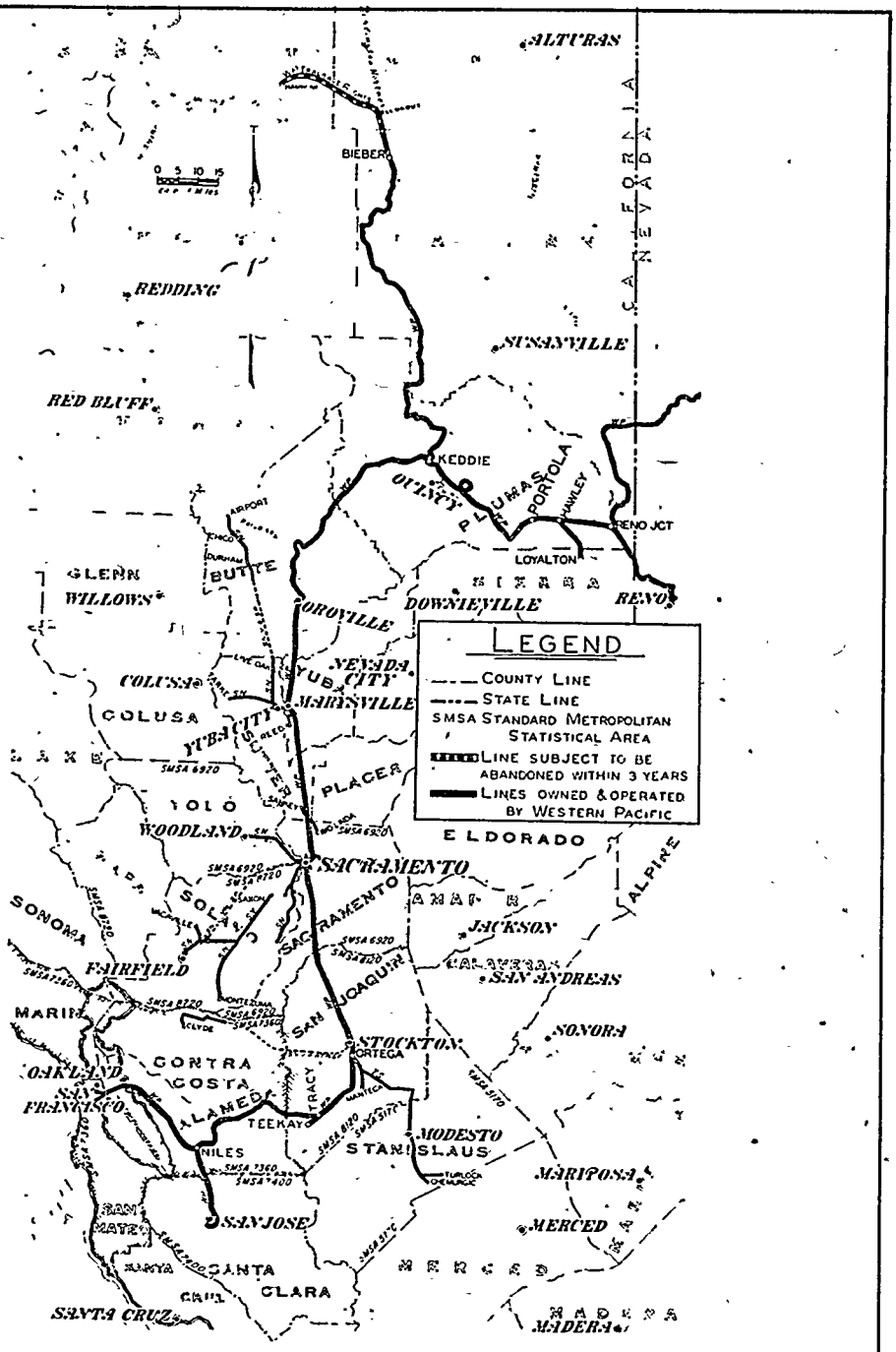
As indicated by its category designation, application for authority to abandon this line is proposed to be filed with the Interstate Commerce Commission within three years from the date hereof and will be assigned Docket No. AB-105 (Sub No. 1F).

Dated: December 1, 1978.

EUGENE J. TOLER,
Attorney for the Western Pacific Railroad Company.

[FR Doc. 79-6541 Filed 3-5-79; 8:45 am]

[7035-01-C]



AB NO. 105

THE WESTERN PACIFIC RAILROAD COMPANY

SYSTEM MAP

AMENDED OCT. 11, 1978
DATE MARCH 30, 1977 DRAWING NO CE 23-54 SHEET 1 OF 2

[1505-01-M]

[Notice No. 232]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-35090 appearing on page 58885 in the issue for Monday, December 18, 1978, make the following corrections:

(1) On page 58889, in the middle column, in the first full paragraph, the paragraph designation "MC 132755 (Sub-162TA)" should read, "MC 134755 (Sub-162TA)".

(2) On page 58890, in the third column, in the second full paragraph, the paragraph designation "MC 14330 (Sub-48TA)" should read "MC 144330 (Sub-48TA)".

[1505-01-M]

[Decisions Volume No. 58]

PERMANENT AUTHORITY APPLICATION

Decision-Notice

Correction

In FR Doc. 78-35362 appearing on page 59584 in the issue for Thursday, December 21, 1978, make the following corrections:

(1) On page 59585, in the middle column, in the paragraph designated by MC 11207 (Sub-453F), in the 13th line, substitute the State abbreviation, "NC" for "MC".

(2) On page 59595, in the third column, in the paragraph designated by MC 145551F, in the 8th line, substitute the word "contract" for the word "common".

[1505-01-M]

[Decisions Volume No. 60]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Correction

On page 59596 in the issue for Thursday, December 21, 1978, the file line on this document, which should have appeared on page 59596 in the issue for Thursday, December 21, 1978, was omitted. On page 59608, in the middle column, above the line separating the documents, insert the following file line:

[FR Doc. 79-35363 Filed 12-20-78; 8:45 am]

Also, on page 59606, in the last column, in the paragraph designated by MC 144122 (Sub-30f), in the 17th line, substitute the State abbreviation, "NY" for "MY".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

[6570-06-M]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-413-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, March 6, 1979.

CHANGE IN THE MEETING:

The following matter is added to the agenda for the open portion of the meeting:

Report on Federal Appeals Process

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Ethel Bent Walsh, Commissioner
Armando M. Rodriquez, Commisioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice issued March 1, 1979.

[S-438-79 Filed 3-2-79; 10:45 am]

[6740-02-M]

2

FEBRUARY 28, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: March 7, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING (10 A.M.)

CAP-1.—Project No. 2788, F.W.E. Stapehorst, Inc.
CAP-2.—Docket No. ER76-445, Boston Edison Company
CAP-3.—Docket No. ER78-63, Central Telephone & Utilities Corporation
CAP-4.—Docket No. ER79-148, Ohio Power Co. and Columbus & Southern Ohio Power Co.
CAP-5.—Docket No. ER79-141, Kansas City Power & Light Co.
CAP-6.—Project No. 2822, Coos Curry Electric Cooperative, Inc.

GAS AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING

CAG-1.—Docket No. CI64-26, Gulf Oil Corporation
CAG-2.—Docket No. CP77-127, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., and East Tennessee Natural Gas Company
CAG-3.—Docket No. CP79-97, Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation
CAG-4.—Docket No. CI78-985, Exxon Corporation
CAG-5.—Docket Nos. CI78-889, et al., Pogo Producing Company, et al.
CAG-6.—Docket No. CI78-816, et al., Exxon Corporation, et al.
CAG-7.—Docket No. CI76-629, et al., Continental Oil Company, et al.
CAG-8.—Docket Nos. CI78-1042, et al., Chevron U.S.A., et al.
CAG-9.—Docket Nos. CI78-1103, et al., Getty Oil Company, et al.
CAG-10.—Docket No. CI78-462, Cig Exploration, Inc.
CAG-11.—Docket No. CP79-27, Panhandle Eastern Pipe Line Company
CAG-12.—Docket No. OR79-3, Lakehead Pipe Line Company
CAG-13.—Docket No. RI79-23, Southern Union Gathering Company
CAG-14.—Docket No. CP79-92, Columbia Gas Transmission Corporation and Consolidated Gas Supply Corporation
CAG-15.—Docket No. CP79-130, Kentucky West Virginia Gas Company
CAG-16.—Docket No. CP78-434, Northwest Pipeline Corporation. Docket No. CP78-53B, Mountain Fuel Supply Company.
CAG-17.—Docket No. CP74-33, Transcontinental Gas Pipe Line Corporation
CAG-18.—Docket No. CI79-75, et al., Mesa Petroleum Company et al. Docket No. CI79-187, Diamond Shamrock Corporation. Docket No. CI78-55, Exxon Corporation. Docket No. CI79-158, Mobil Oil Corporation. Docket No. CI78-1210, American Natural Gas Production Company. Docket No. CI78-394, Amoco Production Company. Docket No. G-11828, Marathon Oil Company. Docket No. CI78-308, Transocean Oil, Inc. Docket No. CI79-16, Cotton Petroleum Corporation. Docket No. CI77-248, El Paso Natural Gas Company. Docket No. CI78-1200, Tenneco Oil Company. Docket No. CI78-450, Continental Oil Company. Docket No. CI78-962, Transcon Exploration Company. Docket No. CI77-419, Transco Exploration Company. Docket No. CI78-492, Placid Oil Company. Docket No. CI79-29, Transco Exploration Company. Docket No. CI78-1190, Transco Exploration Company. Docket No. CI77-711, Transco Exploration Company. Docket No. CS69-6 et al., Freeport Oil Company, a Division of Freeport Minerals Company. Docket No. CI79-20, Transco Exploration Company. Docket No. CS78-451, SCG Gas Quest, Inc., et al. Docket No. CI79-38, Florida Gas Exploration Company. Docket No. CS75-563, et al. Robert L. Manning, et al. Docket No. CI78-850, Texas Pacific Oil Company, Inc. Docket No. CS78-487, Lack Arbor Petroleum Company. Docket No. CS78-607, SAGU Corporation. Docket No. CS78-619, McGoldrick Oil Company. Docket No. CS78-649, Lifestyle Energy Corporation. Docket No. CS76-2, Guardian Oil Company. Docket No. CI78-1272, Exxon Corporation. FERC Rate Schedule No. 472, Sun Oil Company. Docket No. CS78-645, Howard E. Berry. Docket No. CS78-808, Flournoy Production Company. Docket No. CS69-6, Freeport Oil Company.

MISCELLANEOUS AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING

CAM-1.—Union Oil Company
CAM-2.—Wheeling Electric Company
CAM-3.—Old Dominion Power Company
CAM-4.—Portland General Electric Company
CAM-5.—Amendments to the crude oil price regulations to provide incentive prices for newly discovered crude oil

POWER AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER79-70, Detroit Edison Company

ER-2.—Docket No. ER76-205, Southern California Edison Company
ER-3.—Docket Nos. E-9002 and ER76-122, Commonwealth Edison Company
ER-4.—Docket No. ER76-827, Minnesota Power & Light Company
ER-5.—Docket No. E-8855, Boston Edison Company
ER-6.—Docket No. ER76-819, Central Illinois Power Company
ER-7.—Docket No. ER78-77, Alabama Power Company, Docket No. EL78-27, Alabama Electric Cooperative, Inc., et al., v. Alabama Power Company
ER-8.—Docket No. ER76-445, Boston Edison Company
ER-9.—Project Nos. 2114, 943, 2145, and 2149 and E-9569, Public Utilities #1 Douglas County, Public Utilities #2 Grant County, Washington, and Public Utilities #2 Chelan County

GAS AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING

I. PIPELINE RATE MATTERS

RP-1.—Docket No. RP79-16, Florida Gas Transmission Company
RP-2.—Docket No. CP79-188, Tennessee Gas Pipeline Company

II. PRODUCER MATTERS

CI-1.—Docket No. RI78-18, Natural Gas Pipeline Company of America
CI-2.—Docket No. RI79-23, Southern Union Gathering Company
CI-3.—Docket No. CI77-298, Tenneco, Inc. and Amoco. Production Company, et al. Docket No. IN79-3, Tenneco, Inc., et al.

III. PIPELINE CERTIFICATE MATTERS

CP-1.—Docket No. TC79-3, Consolidated Edision Company of New York, Inc. and National Fuel Gas Supply Corporation
CP-2.—Docket No. RP79-99, Transcontinental Gas Pipe Line Corporation
CP-3.—Docket No. CP78-475, Natural Gas Pipeline Company of America
CP-4.—Docket No. CP78-174, Kansas-Nebraska Natural Gas Company, Inc. Docket No. CP78-216, Michigan Wisconsin Pipe Line Company

MISCELLANEOUS AGENDA—248TH MEETING, MARCH 7, 1979, REGULAR MEETING

M-1.—Amendments to Administrative Procedures Applications for Exceptions
M-2.—Annual reports pursuant to part 276 of the interim regulations under the NGPA and recommended changes to the regulations and filing requirements

KENNETH F. PLUMB,
Secretary.

[S-437-79 Filed 3-2-79; 10:11 am]

[6735-01-M]

3

MARCH 2, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

Secretary of Labor, Mine Safety and Health Administration v. *Shamrock Coal Co.*, BARB 78-152-P, 78-153-P. (Petition for Discretionary Review)

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-442-79 Filed 3-2-79; 3:54 pm]

[6210-01-M]

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, March 9, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. 2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, assistant to the Board, 202-452-3204.

Dated: March 1, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[S-436-79 Filed 3-2-79; 10:11 am]

[7020-02-M]

5

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, March 25, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Resistor chips (Docket No. 561).
b. High-voltage circuit interrupters (Docket No. 563).
5. Certain cigarette holders (Inv. 337-TA-51)—vote.
6. Any items left over from previous agenda.

Portions closed to the public:

7. Status report on investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-439-79 Filed 3-2-79; 11:06 am]

[7590-01-M]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, March 8, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, MARCH 8, 9:30 A.M.

1. Discussion of Legislative Proposals. (Approximately 2 hours—public meeting)
2. Affirmation Session. (Approximately 10 minutes—public meeting)
Effective Amendments to 10 CFR Parts 30, 40 and 70 Timely Notification of Discontinued License Programs (Tentative)
Order in ALAB-502 (Rochester Gas & Elec)
Order in ALAB-523, Skagit
Contractor Conflicts of Interest

THURSDAY, MARCH 8, 1:30 P.M.

1. Discussion of Proposed Civil Penalties Legislation. (Approximately 1 hour—public meeting)
2. Time Reserved for Possible Continuation of Discussion of Legislative Proposals. (Approximately 2 hours—public meeting)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ADDITIONAL INFORMATION: The meetings scheduled for March 1, 1979 (Discussion of Legislative Proposals and Affirmation Session) were postponed.

Dated: March 1, 1979.

WALTER MAGEE,
Office of the Secretary.

[S-441-79 Filed 3-2-79; 3:26 pm]

[4410-01-M]

7

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, March 8, 1979, at 9:00 a.m.

PLACE: Room 828 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

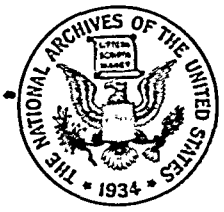
CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202–724–3094.

[S-440-79 Filed 3-2-79; 3:26 pm]

Federal Register

TUESDAY, MARCH 6, 1979
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

■

Tax Exemption of Obligations of Public Housing Agencies

Final Rule

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW-INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-79-558]

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

Final Rule

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The August 3, 1977 final rule (24 CFR Part 811, Subpart A) with respect to tax-exempt obligations issued to finance Section 8 projects is being amended for the purpose of providing low-income housing at the lowest possible costs and rents consistent with expeditious processing. The revision is intended:

(1) To clarify the required relationship between the parent entity PHA and the agency or instrumentality PHA;

(2) To provide guidelines for approving the amount of the obligations and the interest rate; and

(3) To clarify and strengthen other requirements.

EFFECTIVE DATE: April 5, 1979. These regulations are effective with respect to projects for which the Section 8 notification of selection of the preliminary proposal is issued on or after the effective date of these regulations; however, upon the owner's request, HUD field offices may process proposals for which the notification of selection was issued prior to such effective date in accordance with these regulations provided that there is full compliance with the amended regulations and related instructions.

FOR FURTHER INFORMATION CONTACT:

Michael Smilow, Acting Director, Bond Financed Division, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-5945 (not a toll free number).

SUPPLEMENTARY INFORMATION: The Department gave notice on July 14, 1978, at 43 FR 30498, proposing to amend Title 24 of the Code of Federal Regulations by revising Subpart A of Part 811. The comment period closed August 16, 1978. The Department received approximately 80 comments from private parties and offices within the Department. All comments, including those received after the deadline, were considered and significant changes were made as a result of the comments. The discussion below explains the reasons why certain changes were made and why some recommendations were not adopted.

A major criticism of the proposed regulations was based on Section 817 of the HCD Act of 1974 and Section 8(e)(3) of the U.S. Housing Act of 1937. These provisions state that assistance shall not be withheld or made subject to conditions or preferences by reason of the tax-exempt status of the obligations issued to provide financing for a project, except where otherwise expressly provided or authorized by law. Commentors pointed out that a number of the changes proposed in the July 14, 1978 proposed rule, as compared to the August 3, 1977 final rule, were Section 8 program matters that should not be imposed only on Section 8 projects financed with tax-exempt obligations.

The Department recognized this during the drafting of the proposed regulations, and has been working on a general redrafting of the Section 8 program regulations (24 CFR Parts 880, 881 and 883). These requirements were included in the July 14, 1978 publication for purposes of inviting public comment because it was the Department's intention to consider their inclusion to the extent appropriate in the Section 8 program regulations. We have now deleted from this subpart those requirements that are Section 8 program matters not directly related to tax-exempt financing. Among the items deleted are: profit restrictions and control of project revenues; operating deficit escrows; HUD reviews of plans and specifications; restrictions on term of contract; and changes in FHA processing. To the extent considered appropriate, these will be included in the amended Section 8 program regulations and will then apply to all projects subject to this Subpart, since all such projects are subject to the applicable Section 8 regulations.

We have retained requirements directly related to tax-exempt financing that provide what we believe are necessary controls over the use of the Federal subsidy that is provided by tax-exempt financing. These requirements are not new, since, with a few exceptions, they were included in the August 3, 1977 final rule. The Subpart now provides guidelines to HUD field offices as to how they are to determine development cost, cost of issuance, servicing fee and yield ("interest rate" previously). Other provisions are restatements and clarifications of what was previously required by Part 811 or the applicable Section 8 program regulations for all tax-exempt financing. The provisions that were not included in the August 3, 1977 final rule, such as the PHA as contract administrator, verification of estimates at completion and inspections during construction, were included in the proposed rule and are directly related to this method of financing.

We have included a specific reference (§ 811.101(d)) to the waiver authority, provided in 24 CFR Part 899, that may be exercised by the Assistant Secretary for Housing where good cause for an exception can be shown. The regulations impose limits that may be inappropriate for a particular project, and where it can be shown that an exception will serve the overall objective of a successful project within reasonable cost limits, a request for waiver will be considered. Such requests should be addressed to the field office with the appropriate documentation.

A discussion of the major changes from the proposed rule is set forth below.

1. Changes in Definitions (§ 811.102). Ancillary cost of servicing and expenses of issuing were changed to servicing fee and cost of issuance; definitions of capitalized interest during construction, debt service reserve, obligations and yield have been added. Yield was substituted for interest rate. The definition of yield is in accordance with the true interest cost method. References to the Annual Contributions Contract, Agreement to Enter Into Housing Assistance Payments Contract and Housing Assistance Payments Contract were inserted to make it clear that each of these contracts will be amended to incorporate provisions in accordance with this Subpart.

2. The definition of expenses of issuing in the proposed rule has been changed by deleting "underwriter/issuer fees" and the requirement that any return from a discount or premium is to be included in such expenses. There were numerous objections to this attempt to regulate this aspect of the financing and we have decided it is unnecessary to protect the government's interest in view of the restrictions on yield incorporated in this final rule. We have included a requirement that the financing agency report the terms and conditions of any resale occurring within 60 days of the date of issuance (§ 811.109(b)).

3. Section 811.103(a) includes two provisions previously included in the definitions. The requirement that all units be Section 8 contract units has been retained to assure that the subsidy provided in the form of tax exemption results in units available to low-income families. Commercial space has been permitted within stated limits

where it is a necessary appurtenance to the project.

4. Section 811.103(b) requires that a public entity PHA either own the project or agree to administer the contract pursuant to an ACC with HUD. Because the public entity PHA has the major responsibility for initiating a Part 811 financing (either by issuing the obligations itself or by establishing the relationship that permits the agency or instrumentality PHA to issue such obligations), the Department expects that the public entity PHA will accept a continuing responsibility for assuring that the project continues to be operated in compliance with the contract. Section 811.103(b), as amended to provide a more detailed explanation, requires the public entity, PHA, if it does not own the project, to agree to administer the contract pursuant to an ACC with HUD and to agree that in the event there is a default under the contract, to pursue available remedies to achieve compliance with the contract, including operation and possession of the project. If the field office finds that the PHA does not have the capacity to perform these functions, the Assistant Secretary for Housing may approve alternative contractual arrangements for performing these functions. We believe that this provides for the assumption by the public entity PHA of appropriate responsibility while allowing necessary flexibility in HUD to permit alternative methods of accomplishing the same goals where this is shown to be necessary.

5. The requirement that the counsel for the PHA be "acceptable to the field office" has been deleted from §§ 811.104 and 811.105. HUD field office counsel will be instructed to require that these opinions address all necessary points, but that field counsel must independently conclude that all requirements under this Subpart have been met. A corresponding change was made in § 811.107(a)(4) with regard to the legal opinions required with regard to the legality of the financing documents.

6. There were objections to the requirements in §§ 811.104 and 811.105 that the PHA have at the time of its application the administrative capability to perform its responsibilities. This language has been changed to require that the applicant "has or will have" the capability. This showing could be made by submitting a staffing plan demonstrating that the PHA will be adequately staffed for the particular functions it proposes to assume. Where the entity's functions are limited to assisting in financing a project, the capability could be similarly limited.

7. The restriction to a 30 year term for the contract for elderly projects has been deleted since it is a Section 8 program matter. The term of the contract for FHA-insured projects will be for a maximum of 20 years in accordance with previously published instructions from the Assistant Secretary for Housing; it has been deleted from this Subpart as unnecessary.

8. The term of the contract is to be for the total number of years approved by the field office rather than the 5 year term with an option to renew permitted by the Section 8 program regulations. In addition to suspension or termination of the subsidy, the default provisions of the contract will explicitly provide that HUD and the PHA may apply to a court for specific performance of the contract or may pursue other remedies to obtain correction of any default. The field office will notify the trustee of a default and provide an opportunity for the trustee to correct the problem before action is taken to suspend or terminate assistance.

9. Section 811.108 of the proposed rule would have changed requirements for FHA-insured projects. This is inappropriate for this Subpart. Accordingly, we have deleted: (a) The calculation of project net income (§ 811.108(a)(1)); (b) the increased expenses of issuing that can be included in the FHA-insured mortgage beyond the usual 3½% (§ 811.108(a)(2)); and (c) the operating deficit escrow (§ 811.108(a)(4)). An explicit reference to the percentage amount (currently 3½%) that may be included in the FHA-insured mortgage for the cost of issuance has been added. We believe that most FHA-insured projects can work within this limit. Additional cost of issuance or capitalized interest during construction on escrowed permanent obligations may not be included in the mortgage or in the obligations for an FHA-insured project.

10. We have continued to restrict to six months the debt service reserve for FHA-insured projects. The reserve will be used to protect the bondholders against loss during the time period from default by the owner under the mortgage until payment of the insurance claim. A six month reserve should be adequate for this purpose.

11. Several changes were made in the wording of § 811.108(b), with respect to non-FHA-insured projects, to clarify the meaning and to permit greater flexibility. The allowance for vacancies will be determined by the field office, based on a judgment of actual anticipated vacancies. The percentage limits on the cost of issuance were revised slightly in response to comments and to exclude any underwriter/issuer fee.

12. Sections 811.108(a)(3) and 811.108(b)(4) were added to explain how the interest rate on the mortgage is related to the required debt service payments on the obligations. The procedure is different for FHA-insured and non-FHA-insured projects because of the different treatment of the debt service reserve for these two types of projects.

13. Section 811.108(b)(1) limits the amount of the obligations, except for the debt service reserve and discount, if any, to an amount set by capitalization of project net income at the projected debt service rate, adjusted to provide for the servicing fee, and § 811.108(b)(2)(iii) limits development cost to an amount determined to be reasonable by the field office. The field office will review and approve development cost based on the itemized list of costs, rents and expenses submitted by the owner as part of the final proposal, using the FHA Form 2013, which is in part already required by the applicable Section 8 program regulations. The field office will not conduct a full review based on cost estimates, as is done for FHA-insured projects, but will examine the owner's estimates to determine if they are reasonably related to the costs of similar projects in the area.

14. Section 811.109 uses the term yield as the basis for determining the obligations are sold by the issuer within the limitations of this Subpart. The ceiling based on the Tandem Plan which was in the proposed rule has been deleted.

15. There were objections to the requirement in § 811.109 that there be either competitive bidding or a yield related to a stated number of basis points above the Bond Buyer 20 Bond Index. Competitive bidding is one option. It is not required but is available as an alternative. We have retained the general scheme of relating yield to the 20 Bond Index; comments did not suggest any better way to relate yield to an established nationally known statement of market yields. Criticism was directed more at the basis point differentials. We believe that administrative necessity requires us to relate the decisions made by field offices to a known standard. However, to increase flexibility in applying this standard, the basis point differentials will be set quarterly or more frequently by the Assistant Secretary for Housing. This will permit adjustments as needed to reflect market conditions while providing the field office with a clear standard of what is acceptable.

16. Section 811.110(b)(2) limits the interest rate on tax-exempt interim financing to what the field office determines to be reasonable within a maximum set quarterly or more frequently by the Assistant Secretary for Housing. This is consistent with the limitation for permanent financing and should be more easily administered

than the Treasury rate in the proposed rule. Where there is an escrow of the interim obligation, investment income which is realized because of the tax-exempt status of the funds is to be used to reduce development cost.

17. Section 811.111 of the proposed rule provided for HUD review of plans and specifications. This is a Section 8 program matter and has been deleted.

18. Section 811.113 now includes the provisions of § 811.112(b) of the proposed rule which established the certifications required from a financing agency. These are now combined with the cost statements required at completion of the project. Since either a reduction in interest costs or in principal amount may require a reduction of the approved contract rents, this rearrangement permits the determination of appropriate reductions, if any, to occur once at completion of construction.

19. Since we have provided, for non-FHA-insured projects, an expedited means of initially determining the amount of the obligations, which includes amounts for development cost and cost of issuance, a check on the accuracy of these estimates and an assurance that they have been expended for these purposes is necessary. The regulations do not impose either the full scale cost estimates or the cost certification required of FHA-insured projects. We believe the Government's interest in the best use of both the Section 8 subsidy and the tax exemption is adequately protected by a simpler and quicker procedure that provides a reasonable assurance that the amounts represented to HUD, as the estimated costs of the project, have been expended for that purpose. The regulations have been amended to make it clear that what is required is a certified statement from the financing agency and a certified statement, audited by an independent public accountant, from the owner as to their actual expenditures. The standard of review stated in § 811.113(d) is that used in HUD review of certifications by state agencies under 24 CFR Part 883. We believe this standard will permit prompt execution of the contract while affording the Department the required degree of protection against abuses.

20. Section 811.114 and 811.115 of the proposed rule included detailed provisions for the use of project revenues. These have been deleted because they are FHA or Section 8 program matters. The deleted items include: (1) The restriction to non-profit and limited dividend owners (§§ 811.114(a) and 811.115(c)(3)); (2) the prohibition of a gross revenue pledge for FHA-insured projects § 811.114(b)); (3) the provision with regard to use of project revenues for non-FHA-insured projects (§ 811.115 (c)); and (4) the requirement for an audit of the owner (§ 811.115(d)). Other provisions of §§ 811.114 and 811.115 have been incorporated into a single § 811.114.

21. Section 811.114(b) explains the required treatment of reserves and accounts for (a) "all project requirements" and (b) "all required payments to the holders of the obligations." Excess funds in any of the accounts in the second category are not to be disbursed to the owner or financing agency and are therefore to be added to the debt service reserve. Since accounts in the first category are not funded from the obligations or required debt service payments, but rather from project revenues, there is no similar restriction.

22. Section 811.114(c) combines § 811.115(g) and (h) of the proposed rule.

23. Section 811.115(c) reverses the policy stated in the proposed rule (§ 811.116(e)) to permit state agencies to use the special procedures provided in Part 883 in requesting tax exemption under this subpart. They will be required to submit the additional certifications required by this subpart.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 811 is amended as follows:

Subpart A is revised in its entirety, including the title of the subpart heading, to read as follows:

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

Subpart A—Tax Exemption, Under Section 11(b) of the Act, of Obligations Issued by Public Housing Agencies to Finance Section 8 Projects.

Sec.
811.101 Purpose and scope.
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811.105 Approval of Agency or Instrumentality PHA.
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811.114 Trust indenture provisions.
811.115 Other requirements.
811.116 Approval of obligations as tax-exempt.
811.117 Applicability to tax exemption other than under Section 11(b).

AUTHORITY: Sec. 7(d), Dept. of HUD Act (42 U.S.C. 3535(d)); secs. 3(6), 5(b), 8, 11(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, and 1437).

Subpart A—Tax Exemption, Under Section 11(b) of the Act, of Obligations Issued by Public Housing Agencies to Finance Section 8 Projects

§ 811.101 Purpose and scope.

(a) Section 11(b) of the Act provides that: "Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States."

(b) The purpose of this subpart is to provide a basis for determining tax exemption of obligations issued by public housing agencies pursuant to Section 11(b) or the United States Housing Act of 1937 for Section 8 new construction or substantial rehabilitation projects (24 CFR Parts 880, 881 and 883).

(c) This subpart does not apply to tax exemption pursuant to Section 11(b) for low-income housing projects developed pursuant to 24 CFR Parts 805 and 841.

(d) Where good cause, supported by documentation of the pertinent facts and grounds, is shown, provisions of this subpart, subject to statutory limitations, may be waived pursuant to 24 CFR Part 899.

§ 811.102 Definitions.

(a) *Act.* The United States Housing Act of 1937 (42 U.S.C. 1437, et. seq.).

(b) *Agency or Instrumentality PHA.* A not-for-profit private or public organization that is authorized to engage in or assist in the development or operation of low-income housing and that has the relationship to a parent entity PHA required by this subpart.

(c) *Agreement.* An Agreement to Enter Into Housing Assistance Pay-

ments Contract as defined in the applicable Section 8 regulations. The form of agreement for projects financed with tax-exempt obligations shall be amended in accordance with this subpart.

(d) *Annual Contributions Contract (ACC).* An Annual Contributions Contract as defined in the applicable Section 8 regulations. The form of ACC for projects financed with tax-exempt obligations shall be amended in accordance with this subpart.

(e) *Applicable Section 8 Regulations.* The provisions of 24 CFR Parts 880, 881, or 883 that apply to the project.

(f) *Capitalized Interest During Construction.* The amount necessary for debt service payments on the permanent obligations, less anticipated investment income, during the anticipated escrow period.

(g) *Contract.* A Housing Assistance Payments Contract as defined in the applicable Section 8 regulations. The form of contract for projects financed with tax-exempt obligations shall be amended in accordance with this subpart.

(h) *Cost of Issuance.* Ordinary, necessary, and reasonable costs in connection with the issuance of obligations. These costs shall include attorney fees, rating agency fees, trustee fees, printing costs, bond counsel fees, feasibility studies (for non-FHA-insured projects only), consultant fees and other fees or expenses approved by HUD.

(i) *Debt Service Reserve.* A fund maintained by the trustee as a supplemental source of money for the payment of debt service on the obligations.

(j) *Development Cost.* Ordinary, necessary, and reasonable costs for planning, land acquisition, demolition, construction or rehabilitation, equipment, and other items necessary for the development or acquisition of a low-income housing project, costs of the interim financing and inspections.

(k) *Financing Agency.* The PHA (parent entity PHA or agency or instrumentality PHA) that issues the tax-exempt obligations for financing of the project.

(l) *HUD.* The Department of Housing and Urban Development.

(m) *Low-income Housing Project.* Housing for families and persons of lower income developed, acquired or assisted by a PHA under Section 8 of the Act and the improvement of any such housing.

(n) *Obligations.* Bonds, notes or other evidence of indebtedness that are issued to provide interim or permanent financing of a low-income housing project. Pursuant to Section 319(b) of the Housing and Community Development Act of 1974, the term obligations shall not include any obligation secured by a mortgage insured under Section 221(d)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under Section 8 of the Act. This exclusion does not apply to a public agency as mortgagee.

(o) *Owner.* An owner as defined in the applicable Section 8 regulations.

(p) *Parent Entity PHA.* Any state, county, municipality or other governmental entity or public body that is authorized to engage in or assist in the development or operation of low-income housing and that has the relationship to an agency or instrumentality PHA required by this subpart.

(q) *Public Housing Agency (PHA).* Any state, county, municipality, or other government entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of low-income housing.

(r) *Servicing Fees.* The annual costs of servicing the obligations (including any debt service reserve), including trustee fees, mortgage servicing fees, PHA expenses in connection with annual reviews, maintenance of books and accounts, audit expenses, agent fees and other costs of servicing the obligations.

(s) *Trust Indenture.* A contract setting forth the rights and obligations of the issuer, bondholders, owner and trustee in connection with the tax-exempt obligations. The trust indenture may also include provisions regarding the loan to the owner or these may be set forth in a separate mortgage.

(t) *Trustee.* The entity that has legal responsibility under the trust indenture for disposition of the proceeds of a bond issuance and servicing of the debt represented by the obligations. The trustee must be a bank or other financial institution that is legally qualified and experienced in performing fiduciary responsibilities with respect to the care and investment of funds of a magnitude comparable to those involved in the financing.

(u) *Yield.* That percentage rate at which the present worth of all payments of principal and interest to be paid on the obligations is equal to the purchase price.

§ 811.103 General.

(a) In order for obligations to be tax-exempt under this Subpart the obligations must be issued by a PHA in connection with a low-income housing project approved by HUD under the Act and the applicable Section 8 regulations.

(1) Except as needed for a resident manager or similar requirement, all dwelling units in a low-income housing project that is to be financed with obligations issued pursuant to this subpart must be Section 8 contract units.

(2) A low-income housing project that is to be financed with obligations issued pursuant to this subpart may include necessary appurtenances. Such appurtenances may include commerical space not to exceed 10% of the total net rentable area.

(b) Where the parent entity PHA is not the owner of the project, the parent entity PHA or other PHA approvable under § 811.104 must agree to administer the contract pursuant to an ACC with HUD, and such a PHA must agree that in the event there is a default under the contract it will pursue all available remedies to achieve correction of the default, including operation and possession of the project, if called upon by HUD to do so. If the field office finds that the PHA does not have the capacity to perform these functions, the Assistant Secretary for Housing may approve alternative contractual arrangements for performing these functions.

§ 811.104 Approval of Public Housing Agencies (other than Agency or Instrumentality PHAS).

(a)(1) An application to the field office for approval as a Public Housing Agency, other than an agency or instrumentality PHA, for purposes of this subpart shall be supported by evidence satisfactory to HUD to establish that:

(i) The applicant is a PHA as defined in this subpart, and has the legal authority to meet the requirements of this subpart and applicable Section 8 regulations, as described in its application. This evidence shall be supported by the opinion of counsel for the applicant.

(ii) The applicant has or will have the administrative capability to carry out the responsibilities described in its application.

(2) The evidence shall include any facts or documents relevant to the determinations required by § 811.104(a)(1), including identification of any pending application the applicant has submitted under the Act. In the absence of evidence indicating the applicant may not be qualified, the field office may accept as satisfactory evidence:

(i) Identification of any previous HUD approval of the applicant as a PHA pursuant to this § 811.104;

(ii) Identification of any prior ACC with the applicant under the Act; or

(iii) A statement, where applicable, that the applicant is an approved participating agency under 24 CFR Part 883 (State Housing Finance and Development Agencies).

(b) The applicant shall receive no compensation in connection with the financing of a project, except for its expenses. Such expenses shall be subject to approval by HUD in determining the development cost, cost of issuance and servicing fee, as appropriate. Should the applicant receive any compensation in excess of such expenses, the excess is to be placed in the debt service reserve.

(c) Where the applicant acts as the financing agency, the applicant shall be required to furnish to HUD an audit by an independent public accountant of its books and records in connection with the financing of the project within 90 days after the execution of the contract or final endorsement and at least biennially thereafter.

(d) Any subsequent amendments to the documents submitted to HUD pursuant to this § 811.104 must be approved by HUD.

§ 811.105 Approval of agency or instrumentality PHA.

(a) An application to the field office for approval as an agency or instrumentality PHA for purposes of this subpart shall:

(1) Identify the parent entity PHA.

(2) Establish by evidence satisfactory to HUD that:

(i) The parent entity PHA meets the requirements of § 811.104.

(ii) The applicant was properly created pursuant to state law as a not-for-profit entity; is an agency or instrumentality PHA, as defined in this subpart; has the legal authority to meet the requirements of this subpart and applicable Section 8 regulations, as described in its application; and the actions required to establish the legal relationship with the parent entity PHA prescribed by § 811.105(c) have been taken and are not prohibited by State law. This evidence shall be supported by the opinion of counsel for the applicant and counsel for the parent entity PHA.

(iii) The applicant has, or will have, the administrative capability to carry out the responsibilities described in its application.

(b) The charter or other organic document establishing the applicant shall limit the activities to be performed by the applicant, and funds and assets connected therewith, to carrying out or assisting in carrying out Section 8 projects. Such organic documents shall provide that the applicant shall receive no compensation in connection with the financing of a project, except for its expenses. Such expenses shall be subject to approval by HUD in determining the development cost, cost of issuance and servicing fee, as appropriate. Should the applicant receive any compensation in excess of such expenses, the excess is to be placed in the debt service reserve.

(c) The documents submitted by the applicant shall include the following with respect to the relationship between the parent entity PHA and the agency or instrumentality PHA:

(1) Provisions requiring approval by the parent entity PHA of the charter or other organic instrument and of the bylaws of the applicant, which organic instrument and bylaws shall specify that any amendments are subject to approval by the parent entity PHA and by HUD.

(2) Provisions requiring approval by the parent entity PHA of each project and of the program and expenditures of the applicant.

(3) Provisions requiring approval by the parent entity PHA of each issue of obligations by the applicant not more than 60 days prior to the date of issue and approval of any substantive changes to the terms and conditions of the issuance prior to date of issue.

(4) Provisions requiring the applicant to furnish an audit of all its books and records by an independent public accountant to the parent entity PHA within 90 days after execution of the contract or final endorsement and at least bennially thereafter; and provisions requiring the parent entity PHA to perform an annual review of the applicant's performance and to provide HUD with a copy of such review together with any audits performed during the reporting period.

(5) Provisions giving the parent entity PHA right of access at any time to all books and records of the applicant.

(6) Provisions that upon dissolution of the applicant, title to or other interest in any real or personal property that is owned by such applicant at the time of dissolution shall be transferred to the parent entity PHA or to another PHA or to another not-for-profit entity as determined by the parent entity PHA and approved by HUD, to be used only for purposes approved by HUD.

(7) Evidence of agreement by the parent entity PHA, or other entity as may be provided for in alternative contractual arrangements pursuant to § 811.103(b), to accept title to any real or personal property pursuant to § 811.105(c)(6).

(d) Any subsequent amendments to the documents submitted to HUD pursuant to this § 811.105 must be approved by HUD.

(e) Members, officers, or employees of the parent entity PHA may be directors or officers of the applicant unless this is contrary to state law.

§ 811.106 Term of permanent obligations and contract.

(a) For non-FHA-insured projects, the term of the obligations shall not exceed the term of the contract plus the anticipated construction period stated in the agreement rounded to the next full year.

(b) For FHA-insured projects, the term of the obligations shall not extend beyond the term of the FHA insured mortgage, which may be greater than the term of the contract.

(c) The term of the contract shall be approved by the field office pursuant to the applicable Section 8 regulations and the owner shall be required to continue to provide low-income housing for the full term of the contract. There shall be no option in the owner to terminate or renew the contract at shorter intervals.

(d) If HUD finds there is a default under the Contract, the field office shall so notify the trustee and give the trustee a specified reasonable time to take action to require the owner to correct such default prior to any suspension or termination of payments under the contract. In the event of a default under the contract, HUD may terminate or suspend payments under the contract, may seek specific performance of the contract and may pursue other remedies.

§ 811.107 Financing documents and data.

(a) A financing agency proposing to issue tax-exempt obligations shall submit the following documents:

(1) Copies of the documents relating to the method of financing of the project. Such documents shall include the bond resolution, loan agreement, pledge, regulatory agreement, bond, note, trust indenture and other related documents, if any, all of which shall be in compliance with all requirements of this subpart and applicable Section 8 regulations.

(2) Certifications by the financing agency:

(i) A certification that the yield on the obligations will not exceed the ceiling imposed by this subpart.

(ii) For an FHA-insured project, a certification that the amount of debt service payable by the owner will not exceed the amount required for the debt service payments on the total obligations, excluding the debt service reserve, plus the servicing fee.

(iii) For a non-FHA-insured project, a certification that the amount of debt service payable by the owner will not exceed the amount required for the debt service payments on the total obligations, plus the servicing fee.

(iv) A certification that the terms of the financing and the use of the obli-

gations will be in accordance with this Subpart.

(3) An explanation of all reserves or accounts to be established or maintained, the method of funding and the flow of funds. The explanation should be in sufficient detail to facilitate field office review.

(4) An opinion from counsel for the financing agency as to the legality of all documents relating to the method of financing the project. Where this opinion relies on other legal opinions such as those of counsel for the underwriter or the purchaser of tax-exempt interim and permanent obligations, copies of these opinions shall be included.

(5) Financial data:

(i) For FHA-insured projects, in addition to the financial data required for FHA insurance, an itemized statement of the cost of issuance, debt service reserve and total amount of obligations, and a statement of the projected yield, interest rate and term of tax-exempt interim and permanent obligations. If it is later determined to change any of the above, amended documents shall be submitted.

(ii) For non-FHA-insured projects, an itemized statement of development cost, cost of issuance, capitalized interest during construction, debt service reserve, and total amount of obligations and, for the purposes of the HUD determination of the approved amount of the obligations required by § 811.108(b), an estimate of annual income and expenses, and a statement of the projected yield, interest rate and term of tax-exempt interim and permanent obligations. If it is later decided to change any of the above, amended documents shall be submitted.

(b) The counsel for the financing agency shall, prior to the issuance of the obligations, furnish to the field office a certification that any official statement or prospectus or other disclosure statement prepared in connection with the financing includes on the first page the following statement:

"(A) In addition to any other security cited in the statement, the obligations are to be secured by a pledge of an Annual Contributions Contract, if applicable, an Agreement to Enter Into Housing Assistance Payments Contract and a Housing Assistance Payments Contract, all to be executed or approved by the United States Department of Housing and Urban Development (HUD);

"(B) The faith of the United States is solemnly pledged to the payment of annual contributions pursuant to the Annual Contributions Contract or to the payment of housing assistance payments pursuant to the Housing Assistance Payments Contract, and funds have been obligated by HUD for such payments;

"(C) Except as provide in any contract of mortgage insurance, the obligations are not insured by HUD;

"(D) The obligations are not to be construed as a debt or indebtedness of HUD or of the United States, and payment of the obligations is not guaranteed by the United States;

"(E) Nothing in the text of this disclosure statement is to be interpreted to conflict with (A), (B), (C) and (D) above; and

"(F) HUD has not reviewed or approved and bears no responsibility for the content of this disclosure statement."

(c) The financing agency shall retain in its files the documentation relating to the financing. A copy of this documentation shall be furnished to the field office upon request.

(d) In the event a financing agency which has obtained HUD approval of the documents submitted pursuant to this Section 811.107 proposes substantive changes in the documents, whether by way of amendment, replacement or supplementation, such changes must be submitted to the field office for prior approval.

§ 811.108 Amount of permanent obligations, debt service reserve and mortgage debt service.

(a) FHA-insured projects.

(1) The amount of the obligations shall not exceed the amount of the FHA-insured mortgage, plus the amount of any debt service reserve. The maximum cost of issuance that may be included in the mortgage (or in the obligations) shall not exceed the percentage of the mortgage amount otherwise available for the financing fee and the FNMA/GNMA fee. All individual items of the cost of issuance shall be shown to be necessary for the issuance of the obligations and the amount of each shall be shown to be reasonable in relation to prevailing costs of issuing comparable obligations, taking into account any differences between the types of obligations.

(2) The amount of the debt service reserve which may be included in the obligations shall not exceed the amount necessary to pay anticipated debt service on the obligations for six months.

(i) The debt service reserve shall be invested and the income used to pay principal and interest on that portion of the obligations which is attributable to the funding of the debt service reserve. Any excess investment income shall be added to the debt service reserve. In the event such investment income is insufficient, surplus cash or residual receipts to the extent approved by the field office may be used to pay such principal and interest costs.

(ii) The debt service reserve and its investment income shall be available only for the purpose of paying principal or interest on the obligations. The use of the debt service reserve for this purpose shall not be a cure for any failure by the owner to make required payments.

(iii) Upon full payment of the principal and interest on the obligations (including that portion of the obligations attributable to the funding of the debt service reserve), any funds remaining in the debt service reserve shall be remitted to HUD.

(3) The interest rate on the mortgage shall not exceed the rate at which the debt service payments on the mortgage will provide sufficient funds for the debt service payments on the obligations (excluding the debt service reserve) and for payment of the servicing fee.

(4) Notwithstanding HUD approval of the terms and conditions of the tax-exempt permanent financing of the project, the interim mortgagee is required to agree on the date of initial endorsement to hold the mortgage as the permanent lender if the tax-exempt permanent financing is not available at final endorsement. If the tax exempt permanent financing is not available at final endorsement, HUD will approve tax exemption for subsequent financing of the project, provided that all requirements under this subpart are met and the subsequent financing does not exceed the interest rate and is on the same terms and conditions as the original tax-exempt permanent financing.

(b) Non-FHA-insured projects.

(1) The amount of the obligations and discount, if any, excluding the amount of any debt service reserve (see subparagraph (3) of this paragraph), shall not exceed:

(i) For profit-motivated owners, the total derived by capitalizing the project net income, less an allowance for return on equity, at a debt service rate based on projected term and interest rate of the obligations, adjusted to provide for the servicing fee.

(ii) For not-for-profit owners, the total derived by capitalizing 95% of the project net income at a debt service rate based on the projected term and interest rate of the obligations, adjusted to provide for the servicing fee.

(iii) The project net income for the above calculations shall be determined by the following calculation: (A) Contract rent and other project income as approved by HUD, (B) less a HUD approved allowance for vacancies, (C) less HUD approved operating expenses, (D) equals project net income.

(2) The amounts which may be included in the amount of the obligations, for capitalized interest during construction, cost of issuance and development cost shall be subject to the following limits:

(i) If the proceeds of the permanent obligations are to be placed in escrow until completion of construction

(§ 811.112(a)), the amount necessary for capitalized interest during construction may be included.

(ii) The cost of issuance shall not exceed: 4% of the first $2 million; 3% of the third $1 million; 2% of the fourth $1 million; 1% of the fifth $1 million; and .5% of any amount over $5 million. All individual items of the cost of issuance shall be shown to be necessary for the issuance of the obligations and the amount of each shall be shown to be reasonable in relation to prevailing cost of issuance for comparable obligations, taking into account any differences between the types of obligations.

(iii) The remaining amount of the obligations is the maximum that is available for 100% of the development cost for not-for-profit owners and 90% of the development cost for profit-motivated owners, provided that the development cost does not exceed a reasonable amount as approved by the field office after review of the itemized statement of development cost submitted by the financing agency and the other elements of the Section 8 final proposal, including architectural submissions. A profit-motivated owner shall be required to have an equity investment equal to 10% of the HUD approved development cost.

(3) In addition to the amount of the obligations determined under § 811.108(b)(1) above, the amount of the obligations may include a debt service reserve in the amount necessary to pay anticipated debt service for one year on the amount of the obligations.

(i) The owner's debt service payment shall be based upon the full amount of the obligations (i.e., including the amount for the debt service reserve and discount, if any), but investment income from the debt service reserve, up to the amount required for debt service on the obligations attributable to the debt service reserve, shall be credited toward the owner's debt service payment. Any excess investment income shall be added to and become part of the debt service reserve.

(ii) The debt service reserve and investment income thereon shall be available only for the purpose of paying principal or interest on the obligations. The use of the debt service reserve for this purpose shall not be a cure for any failure by the owner to make required payments.

(iii) Upon full payment of the principal and interest on the obligations (including that portion of the obligations attributable to the funding of the debt service reserve), any funds remaining in the debt service reserve shall be remitted to HUD.

(4) The interest rate on the mortgage shall not exceed the rate at which the debt service payments on the mortgage will provide sufficient funds for the debt service payments on the obligations including the debt service reserve and for payment of the servicing fee. Contract rents shall be determined based on the debt service payments necessary to support the obligations excluding the debt service reserve. The debt service reserve is assumed to be self-supporting and HUD has no obligation to increase contract rents in the event the debt service reserve is not self-supporting.

(c) Notwithstanding the other provisions of this section, in the case of a mortgage transaction that does not involve the sale of bonds, whether FHA insured or non-FHA insured, no debt service reserve shall be included in the obligations and the cost of issuance shall be reduced to exclude costs associated with bond financing.

§ 811.109 Yield and servicing fee.

(a) The yield on the obligations shall not exceed a yield approved by the field office in accordance with either subparagraph (1) or (2) of this paragraph.

(1) The financing agency may issue obligations to be offered for public sale under competitive bidding procedures involving the solicitation of sealed bids. Bids shall be solicited through an advertisement which shall include advertisement in a newspaper of national circulation, such as the Daily Bond Buyer. The yield on the low bid received under this procedure may be approved by the field office: *Provided,* That at least two responsive bids are received. If only one responsive bid is received, the yield may be approved by the field office only if acceptable under subparagraph (2) of this paragraph.

(2) The financing agency may issue the obligations at a yield that it certifies is reasonable in relation to prevailing costs in the tax-exempt market for comparable obligations: *Provided,* That the field office has no substantial reason to object to the accuracy of this certification and the yield does not exceed the 20 Bond Index published by the Daily Bond Buyer for the week immediately preceding the sale of the obligations by more than the number of basis points set quarterly or more frequently by the Assistant Secretary for Housing for appropriate categories and different types of projects such as:

(i) FHA-insured family projects;

(ii) FHA-insured elderly projects;

(iii) Non-FHA-insured family projects; and

(iv) Non-FHA-insured elderly projects.

In addition, the Assistant Secretary for Housing may establish from time to time additional categories for non-FHA-insured projects, including categories based upon project size, location, construction type and ratings on the obligations.

(b) If within 60 days of the issuance of the obligations, such obligations are resold, the financing agency shall report the terms and conditions of such resale to HUD.

(c) An amount not to exceed one-fourth of 1% per annum of the obligations may be allowed for the servicing fee. All individual items of the servicing fee shall be shown to be necessary for the servicing of the obligations and shown to be reasonable in relation to the cost of servicing similar obligations.

§ 811.110 Interim financing.

(a) The terms and conditions of any interim financing shall be consistent with the terms and conditions of the permanent obligations which are proposed or committed for issuance. The risk of completion of the project is upon the owner and the interim lender.

(b) The financing agency may request a determination by the field office that obligations to be issued by the financing agency for interim financing are tax exempt pursuant to this subpart, but only where tax exemption has also been requested for the permanent obligations.

(1) The amount of interim obligations shall not exceed the amount of permanent obligations, less the debt service reserve.

(2) The yield on tax-exempt interim obligations shall not exceed the maximum yield set quarterly or more frequently by the Assistant Secretary for Housing. Subject to this maximum, the field office may approve a yield determined to be reasonable.

(3) If tax-exempt interim obligations are issued prior to the date they are to be advanced for development cost or cost of issuance, the funds shall be invested in accordance with § 811.114(b)(3) to earn interest. Any investment income shall be used to pay debt service on the interim obligations or to reduce the amount to be disbursed from the escrow of the permanent obligations.

(4) Tax exemption of interim obligations shall be limited to a term not unreasonably beyond the stated date by which completion is required under the agreement or the anticipated date of final endorsement, including any extensions approved by HUD.

§ 811.111 Construction inspections.

(a) For FHA-insured projects, the standard FHA procedures shall be followed.

(b) For non-FHA-insured projects:

(1) The entity providing the interim financing shall provide for such inspection during construction, either di-

rectly or by agreement with the owner, as the entity deems necessary to protect its interest. Copies of inspection reports shall be furnished to the PHA (including the parent entity and the agency or instrumentality, where applicable) and to HUD.

(2) Inspections on behalf of HUD during construction shall be performed by a qualified inspector hired by the financing agency after obtaining field office approval of the qualifications of the inspector and of the contract under which the services are to be performed. These inspections shall be funded as part of the development cost of the project. Copies of the inspection reports by such an inspector shall be furnished to the field office, the financing agency, the interim lender and the owner. Failure to make such inspections or to note defects shall not relieve the owner and lender of their obligation for completion of the project in accordance with the agreement.

§ 811.112 Issuance of permanent obligations and escrow.

(a) If the permanent obligations are issued before execution of the contract or final endorsement, the proceeds of the obligations shall, upon receipt, be placed in escrow with the trustee pursuant to the trust indenture. Disbursements may be made from the escrow only for the cost of issuance, if not paid from the interim obligations, and for debt service payments. Disbursements may also be made from the escrow for construction financing. *Provided,* That (1) there is an unconditional guarantee by a State or by a county, city, or other unit of general local government that in the event of a default prior to execution of the contract the obligations will be fully redeemed or (2) construction advances are insured pursuant to the National Housing Act. Funds in the escrow shall be invested in accordance with § 811.114(b)(3) to earn interest.

(b) In the event that the contract is not executed within 90 days after the date by which completion is required under the applicable agreement or, for FHA-insured projects, the anticipated date of final endorsement, the permanent obligations shall be redeemed from the funds in escrow plus income from investment of the escrowed funds and less any debt service payments or disbursements for cost of issuance. However, such date for redemption may be extended to a later specified date in the event:

(1) The parties to the agreement, HUD and the trustee have agreed in writing to such extended date, and

(2) Additional funds, in the form of cash or an unconditional letter of credit, are added to the escrow to guarantee that there will be sufficient funds in the escrow on the extended date to pay all amounts that are then required to be paid from the escrow on at least as favorable a basis as if there had been no extension.

(c) The agreement may contain a provision that in the event of foreclosure by the interim lender by reason of a default prior to acceptable completion of the project, or in the event of assignment or sale by reason of such a default to the interim lender or other party agreed to by the interim lender and approved by HUD, the parties to the agreement (other than the defaulted owner) shall agree to a reasonable extension of the completion date upon request of the interim lender where:

(1) The trustee has agreed to the extension,

(2) The interim lender has agreed in writing to assure acceptable completion of the project by the extended date, and

(3) Additional funds, in the form of cash or an unconditional letter of credit, are added to the escrow to guarantee that there will be sufficient funds on the extended date to pay all amounts that are then required to be paid from the escrow on at least as favorable a basis as if there had been no extension.

(d) The escrowed funds, including any investment income, less approved prior disbursements, shall be disbursed only upon execution of the contract or, for FHA-insured projects, at final endorsement and only for the purpose and to the extent of the amounts approved by the field office.

§ 811.113 Execution of contract.

(a) If the field office finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate of occupancy and/or other official approvals required for occupancy, but the evidence of completion in other respects is not acceptable, the field office shall, upon request by the owner, execute or approve the execution of the contract; in such case, however, until the remaining evidence of completion is submitted to and found acceptable by the field office:

(1) The contract rent for the purpose of computing housing assistance payments with respect to any unit shall be the monthly amount of the debt service on the permanent obligations attributable to the unit, and

(2) Rent-up and occupancy shall be subject to such conditions as the field office may require.

(b) The effective date of the contract shall be 10 working days after the notification of project completion to the field office, or the date of the HUD insection if earlier: *Provided,* That the owner's and architect's certifications and other evidence of completion required by the applicable Section 8 regulations are found by the field office to be acceptable as of that date. If the certifications and other evidence of completion are found not to be acceptable as of that date, the effective date of the contract shall be the earliest subsequent date as of which the evidence of completion is found by the field office to be acceptable.

(c) To support the estimates on which the field office determined the amount of the permanent obligations and to assure that the proceeds of the obligations are used for the approved purposes, the evidence of completion to be submitted in accordance with the agreement or, for FHA-insured projects, to be submitted at final endorsement to supplement the documentation required to meet FHA requirements shall include:

(1) A certified statement by the financing agency as to amounts actually expended or to be expended for development cost, cost of issuance, capitalized interest during construction and debt service reserve, supported by (for non-FHA-insured projects) a certified statement by the owner, audited by an independent public accountant, as to the development cost. Records of this cost data shall be available to HUD for inspection upon request. To the extent these amounts are less than those approved by the field office under § 811.108 or there has been an addition to the escrow because of investment income, the financing agency shall state whether the excess funds are to be used to prepay the obligations or are to be added to the debt service reserve.

(2) A certified statement by the financing agency as to the yield and interest rate on tax-exempt interim and permanent obligations, the debt service amount to be paid by the owner and the other terms of the financing.

(d) In reviewing the certifications submitted by the financing agency under paragraph (c) of this section, the field office shall, generally, accept the certifications as correct. However, if the field office has substantial reason to question the correctness of any element, the field office shall promptly bring the matter to the attention of the financing agency and ask that the financing agency review its findings. After such review, the field office will act in accordance with the judgment or evaluation of the financing agency, unless the field office determines that the certifications are not supported by the evidence.

(1) Based on its review, the field office shall approve the amounts to be disbursed from the escrow for development cost, cost of issuance, capitalized interest during construction and the

debt service reserve, including the proposed use of excess funds, if any.

(2) The field office shall amend the contract to reduce the contract rents to the extent that:

(i) For FHA-insured projects, the debt service amount to be paid by the owner is lower than the amounts projected in processing the project, or

(ii) For non-FHA-insured projects, the debt service payments necessary to support the obligations, excluding the revised amount of debt service reserve, is lower than the amounts projected in processing the project.

(e) Upon execution of the contract or at final endorsement the escrowed funds, including any investment income, less approved prior disbursements, shall be disbursed for the purposes and to the extent of the amounts approved by the field office.

§ 811.114 Trust indenture provisions.

(a) The trust indenture shall include, among other things, the following specific provisions with regard to the financing and the operation of the project and shall be otherwise consistent with this Subpart.

(b) Reserves, accounts and escrows.

(1) For non-FHA-insured projects, the trust indenture shall provide for the maintenance of reserves and/or accounts, as approved by the field office, to assure that there are funds as necessary to meet all project requirements.

(2) For all projects, the trust indenture shall provide for the maintenance of reserves and/or accounts, as approved by the field office, to assure that there are funds as necessary to make all required payments to the holders of the obligations.

(3) The funds in the reserves or accounts maintained under paragraph (b)(1) and (b)(2) of this section, as well as funds in any escrow of tax-exempt interim or permanent obligations, shall be invested to earn interest in savings accounts or other deposits that are federally insured, in Treasury securities, in securities insured or guaranteed by a Federal agency, or in securities insured by a U.S. Government agency. Investment income shall be added to and used for the purposes of the particular reserve, account or escrow.

(4) To the extent there are excess funds in any reserve or account maintained under paragraph (b)(2) of this section, these shall be added to the debt service reserve.

(5) A debt service reserve, up to the amount allowable under this Subpart, may be funded from the proceeds of the obligations; this is the only reserve for which advance funding from the proceeds of the obligations is permitted. The use of the debt service reserve and disposition of funds in the reserve shall be consistent with §§ 811.108 and 811.114(b) (2), (3) and (4).

(c) Additional tax-exempt obligations may be issued to finance additional development cost, whether for increased costs during construction or for project improvements after execution of the contract or final endorsement that are shown to be reasonable and are approved by HUD pursuant to this subpart and by the trustee, provided that HUD approves an increase in the mortgage amount (for FHA-insured projects) and, pursuant to the applicable Section 8 regulations, an increase in the contract rents to the extent required to pay debt service on the additional obligations. Such additional obligations, if issued, shall be issued without the refinancing of any outstanding obligations.

(d) Obligations shall be prepaid only under such conditions as HUD shall require, including reduction of contract rents and continued operation of the project for the housing of low-income families.

§ 811.115 Other requirements.

(a) If a project has an executed agreement based on a final proposal that did not include tax-exempt financing under this subpart, conversion to tax-exempt financing under this subpart shall require the prior authorization of the Assistant Secretary for Housing.

(b) Issuance of obligations pursuant to this subpart to refund outstanding permanent obligations issued pursuant to this subpart is probibited.

(c) The special procedures in 24 CFR Part 833, subpart C otherwise available to a participating agency may be used in connection with projects financed with obligations issued pursuant to this subpart: *Provided*, That the participating agency submits the additional certifications necessary to comply with this subpart.

§ 811.116 Approval of obligations as tax-exempt.

(a) The field office director shall send the financing agency a notification of approval of obligations as tax-exempt if the field office finds that:

(1) Obligations proposed to be issued for the financing of a low-income housing project comply with this subpart.

(2) The terms and conditions of the financing (not including the official statement prospectus or other disclosure statement) have been approved pursuant to this subpart and the applicable Section 8 regulations.

(3) The agreement has been executed and, where applicable, approved in writing by HUD.

(b) The notification shall include a statement that:

(1) Pursuant to this subpart and the Act, HUD has found the financing agency to be an eligible PHA.

(2) The obligations, including interest thereon, when issued in accordance with the approved application, shall be exempt from all taxation now or hereafter imposed by the United States whether paid by the PHA or by HUD.

(3) The income derived by the PHA from the low-income housing project shall be exempt from all taxation now or hereafter imposed by the United States.

(c) If the application included tax-exempt interim financing, the notification shall include a statement with regard to such interim financing, including and explicit statement that tax exemption of such obligations is limited to a term not unreasonably beyond the stated date by which completion is required under the agreement or the anticipated date of final endorsement, including any extensions approved by HUD.

(d) This notification of approval of tax exemption shall not be subject to revocation by HUD.

§ 811.117 Applicability to tax exemption other than under section 11(b).

As a condition of obtaining HUD approval of the terms of financing required by Section 8(e)(4) of the Act, all issuers of tax-exempt obligations purporting to be exempt from federal taxation under any other provision of law or governmental regulation (other than an issuer which is a qualified participating agency pursuant to 24 CFR 883.103) shall submit all documents required by §§ 811.107, 811.108, 811.109 and 811.110 to the field office for review and approval. The terms and use of such obligations and the operation of the project shall comply with the requirements of this Subpart.

Issued at Washington, D.C., February 27, 1979.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc. 79-6634 Filed 3-1-79; 1:20 pm]

Federal Register

TUESDAY, MARCH 6, 1979

PART III

OFFICE OF MANAGEMENT AND BUDGET

CIRCULAR A–21

Cost Principles For Educational Institutions

OFFICE OF MANAGEMENT AND BUDGET

CIRCULAR A-21—COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

This notice revises Federal Management Circular 73-8. It will be renumbered OMB Circular No. A-21. The revision originated from recommendations made by the Department of Health, Education, and Welfare after urging by the House and Senate Appropriations Committees.

On March 10, 1978, the Office of Management and Budget published a proposed revision in the FEDERAL REGISTER for comment. In response to the publication, we received approximately 300 letters from Members of Congress, Federal agencies, university administrators, faculty members, professional associations, and members of the public.

There follows a summary of the major comments grouped by subject, and a response to each, including a description of any changes made as a result of the comment. In addition to the changes described specifically, other changes have been made to improve clarity, readability, and precision; and to reduce the burden of compliance as much as possible.

For further information, contact Mr. John J. Lordan, Chief, Financial Management Branch, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503, (202) 395-6823.

PURPOSE

Comment. Several commentators pointed out that the proposed revision contained too much detail, and that it seemed to establish cost accounting procedures and instructions, rather than cost accounting principles.

Response. In our opinion, the revision does not change the fundamental nature of the Circular. It provised for more consistent treatment of costs, and clarifies many provisions that were considered too vague and which left the way open to widely varying interpretations. This subject is covered in more detail below in specific comments on other sections of the Circular.

Comment. Several commentators had a favorable reaction to the provision which says that agencies are not expected to place additional restrictions on individual items of cost.

Response. This provision remains in the Circular.

APPLICABILITY

Comment, Several commentators agreed with the provision which extends regulations of the Cost Accounting Standards Board to federally funded research and development centers operated by universities. This was a coordinated action with the CASB, which has exempted other work at universities from coverage.

Response. This provision remains in the Circular.

EFFECTIVE DATE

Comment. Several commentators pointed out the need for adequate time for implementation. Some suggested a two-year transition period.

Response. The Circular now establishes an effective date of October 1, 1979, and says that implementation will begin in the institution's first fiscal year beginning after that date. This can be speeded up or extended with the agreement of the cognizant Federal agency. We would expect this provision to be used to assure an orderly phase in of new provisions such as the accounting for tuition remission and specialized service facilities.

DEFINITION OF TERMS

Comment. Many commentators stated that "other sponsored activities" should not include agricultural extension programs, which had been cited as an example.

Response. This example has been removed from the Circular and we are now studying a request to exempt this program from coverage by the Circular.

INDIRECT COSTS

Comment. Many commentators objected to the inclusion of a standard allocation method to be used for each of the categories of indirect cost.

Response. The Circular has been revised to more clearly state that the standard allocation method is used only in the absence of a cost analysis study, or a mutual agreement between the institution and the cognizant agency on use of a different method.

Comment. Several commentators argued that it was inequitable to allocate depreciation on certain capital improvements on a standard base of unweighted headcount of students and employees.

Response. The unweighted headcount base has been replaced by a full-time equivalent base.

Comment. As proposed, the modified total direct cost base consisted of salaries and wages, fringe benefits, materials and supplies, travel, and subgrants and subcontracts up to $5,000 each. Several commentators proposed an increase in the dollar level of subgrants and subcontracts. Suggestions ranged from $10,000 to $50,000.

Response. The amount has been raised to $25,000.

Comment. A number of commentators objected to the use of the number of sponsored agreements as the standard base for allocating the costs of sponsored projects administration.

Response. The standard allocation base has been changed to modified total direct costs.

LIBRARY EXPENSES

Comment. Many commentators objected to the unweighted headcount base for allocating library expenses.

Response. The unweighted headcount base has been changed to the full-time equivalent base.

STUDENT ADMINISTRATION AND SERVICES

Comment. Several commentators objected that the Circular would not recognize student administration and service costs as applicable to the sponsored agreements. They contended that these services benefit all students, including those employed by the institution.

Response. The standard base for allocating student service costs would call for allocation to the instruction function, and subsequently to any sponsored agreement in that function.

DETERMINATION AND APPLICATION OF INDIRECT COSTS OR RATES

Comment. Several commentators objected to the use of modified total direct cost as the standard base for allocating indirect costs to sponsored agreements.

Response. The definition has been modified to include all subgrants and subcontracts up to $25,000 each.

COMPENSATION FOR PERSONAL SERVICES

Comment. Several commentators objected to the frequency of personnel activity reports.

Response. Compared to present requirements, frequency has been reduced from monthly to once an academic term. Also, the Circular has been clarified to explain that employees whose salaries and wages are not charged direct, or not involved in the distribution of indirect costs would not be included in the reporting system.

Comment. Several commentators criticized applying the monitored workload system only to professional employees.

Response. Introducing the monitored workload concept for professional employees recognizes that their activities cannot be measured with the same degree of accuracy as nonprofessionals. We believe that the monitored workload alternative represents a good balance between reducing paperwork and achieving an acceptable level of accountability.

DEPRECIATION AND USE ALLOWANCES

Comment. Several commentators stated that the requirement for a

physical equipment inventory every two years was burdensome.

Response. The two-year inventory requirement remains. However, it has been clarified to recognize that statistical sampling techniques may be used in making the inventory. We believe an institution wishing to recover depreciation or use allowances on equipment must take the normal business precaution of assuring by physical inventory that the equipment is still on hand.

EQUIPMENT AND OTHER CAPITAL EXPENDITURES

Comment. Many commentators recommeded that the definition of equipment be changed from an acquisition cost of $300 and a useful life of more than one year. The most common suggestion was $500 and a useful life of more than two years.

Response. The Circular has been amended to define equipment as tangible personal property having a useful life of more than two years and an acquisition cost of $500 or more per unit.

SCHOLARSHIPS AND STUDENT AID COSTS

Comment. Some commentators objected to the provision that tuition remission for student employees be treated as a direct charge to sponsored agreements.

Response. The Circular would not prohibit tuition remission as an indirect cost in all cases. It would require that tuition remission be treated as a direct or indirect cost in accordance with the actual work being performed. This is consistent with the general rules stated earlier in the Circular and with basic principles of cost accounting.

Comment. Some commentators stated that the tuition remission provision would discriminate against out-of-state students. Since the tuition they would ordinarily pay at State universities is higher than that of in-state students, their remission would be higher, thereby encouraging research faculty to favor in-state graduate assistants.

Response. The Circular has been modified to permit tuition remission to be charged on an average rate basis.

SPECIALIZED SERVICE FACILITIES

Comment. Many commentators objected to the inclusion of "animal resources centers" as a specialized service facility.

Response. "Animal resource centers" has been deleted as an example, but may be treated as a specialized service facility as circumstances dictate at each institution.

Comment. Many commentators cited the possibility that including indirect costs in the charges for specialized service facilities might raise the apparent cost of the services to such a high level that research faculty would decline to use them. They also cited unique situations where it might be appropriate to recover less than the full cost of a specialized service facility.

Response. The Circular provides that normally charges for these services should include both direct and indirect costs. It allows for exclusion of indirect costs where not material in amount.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 26, 1979.

[Circular No. A-21, Revised]

To the Heads of Executive Departments and Establishments.

Subject: Cost principles for educational institutions.

1. *Purpose.* This circular establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions. The principles deal with the subject of cost determination, and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law. Agencies are not expected to place additional restrictions on individual items of cost. Provision for profit or other increment above cost is outside the scope of this Circular.

2. *Supersession.* The Circular supersedes Federal Management Circular 73-8, dated December 19, 1973. FMC 73-8 is revised and reissued under its original designation of OMB Circular No. A-21.

3. *Applicability.*

a. All Federal agencies that sponsor research and development, training, and other work at educational institutions shall apply the provisions of this Circular in determining the costs incurred for such work. The principles shall also be used as a guide in the pricing of fixed price or lump sum agreements.

b. In addition, Federally Funded Research and Development Centers associated with educational institutions shall be required to comply with the Cost Accounting Standards, rules and regulations issued by the Cost Accounting Standards Board, and set forth in 4 CFR Ch. III; provided that they are subject thereto under defense related contracts.

4. *Responsibilities.* The successful application of cost accounting principles requires development of mutual understanding between representatives of educational institutions and of the Federal Government as to their scope, implementation, and interpretation.

5. *Attachment.* The prinicples and related policy guides are set forth in the Attachment, "Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions."

6. *Effective date.* The provisions of this Circular shall be effective October 1, 1979. The provisions shall be implemented by institutions as of the start of their first fiscal year beginning after that date. Earlier implementation, or a delay in implementation of individual provisions, is permitted by mutual agreement between an institution and the cognizant Fedral agency.

7. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-6823.

JAMES T. MCINTYRE, Jr.,
Director.

PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS WITH EDUCATIONAL INSTITUTIONS

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PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS WITH EDUCATIONAL INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objective.* This Attachment provides principles for determning the costs applicable to research and development, training, and other sponsored work performed by colleges and universities under grants, contracts, and other agreements with the Federal Government. These agreements are referred to as sponsored agreements.

2. *Policy guides.* The successful application of these cost accounting principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for Federal agency and institutional participation in the financing of a research, tranining, or other project are properly subject to negotiation between the agency and the institution concerned, in accordance with such Government-wide criteria or legal requirements as may be applicable.

b. Each institution, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research and educational activities in a manner consonant with its own academic philosophies and institutional objectives.

c. The dual role of students engaged in research and the resulting benefits to sponsored agreements are fundamental to the research effort and shall be recognized in the application of these principles.

d. Each institution, in the fulfillment of its obligations, should employ sound management practices.

e. The application of these cost accounting principles should require no significant changes in the generally accepted accounting practices of colleges and universities. However, the accounting practices of individual colleges and universities must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to sponsored agreements.

f. Cognizant Federal agencies involved in negotiating indirect cost rates and auditing should assure that institutions are generally applying these cost accounting principles on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

3. *Application.* These principles shall be used in determining the allowable costs of work performed by colleges and universities under sponsored agreements. The principles shall also be used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also shall be used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

a. Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees of an institution.

b. Capitation awards.

c. Other awards under which the institution is not required to account to the Government for actual costs incurred.

B. DEFINITION OF TERMS

1. *Major functions of an institution* refers to instruction (includes departmental research), organized research, other sponsored activities, and other institutional activities as defined below:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in c below, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a noncredit basis, and whether they are offered through regular academic departments or separate divisions, such as summer school division or an extension division.

b. *Departmental research* means all research and development activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function of an institution but as a part of the instruction function of the institution.

c. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. This term includes research and development activities that ase sponsored by Federal and non-Federal agencies and organizations, as well as those that are separately bedgeted by the institution under an internal allocation of institutional funds. It also includes activities involving the training of individuals in research techniques (commoly called research training) where such activities utilize the same facilities as other research and development activities, and where such activities are not included in the instruction function. The costs of organized research and development activities include all costs incurred by the institution in performing the activities.

d. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects, and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as other institutional activities.

e. *Other institutional activities* means all activities of an institution except: (1) instruction, departmental research, organized research, and other sponsored activities, as defined above; (2) indirect cost activities indentified in Section F; and (3) specialized service facilities described in Section J38. Other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartment, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are "unallowable" to sponsored agreements, unless otherwise indicated in the agreements.

2. *Sponsored agreement,* for purposes of this circular, means any grant, contract, or other agreement between the institution and the Federal Government.

3. *Allocation* means the process of assigning a cost, or a group of costs, to one or more cost objective, in reasonable and realistic proportion to the benefit provided or other equitable relationship. A cost objective may be a major function of the institution, a particular service or project, a sponsored agreement, or an indirect cost activity, as described in Section F. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

C. BASIC CONSIDERATIONS

1. *Composition of total costs.* The cost of a sponsored agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allow-

able indirect costs of the institution, less applicable credits as described in 5 below.

2. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are: (a) they must be reasonable; (b) they must be allocable to sponsored agreements under the principles and methods provided herein; (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, it employees, it students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

4. *Allocable costs.*

a. A cost is allocable to a particular cost objective (i.e., a specific function, project, sponsored agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if (1) it is incurred solely to advance the work under the sponsored agreement; (2) its benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods, or (3) it is necessary to the overall operation of the institution and, in light of the principles provided in this Circular, is deemed to be assignable in part to sponsored projects. Where the purchase of equipment or other capital items is specifically authorized under a sponsored agreement, the amounts thus authorized for such purchases are assignable to the sponsored agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular sponsored agreement under the standards provided in this Circular may not be shifted to other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the sponsored agreement, or for other reasons of convience.

5. *Applicable credits.*

a. The term applicable credits refers to those receipts or negative expenditures that operate to offset or reduce direct or indirect cost items. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnites on losses; and adjustments of overpayments or erroneous charges. This term also includes "educational discounts" on products or services provided specifically to educational institutions, such as discounts on computer equipment, except where the arrangement is clearly and explicitly identified as a gift by the vendor.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to sponsored agreements for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See Sections F8, J9a, and J38 for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.* Costs incurred or paid by State or local governments on behalf of their colleges and universities for fringe benefit programs such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the institutions are allowable costs of such institutions whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

a. The costs meet the requirements of C1 through 5 above.

b. The costs are properly supported by cost allocation plans in accordance with applicable Federal cost accounting principles.

c. The costs are not otherwise borne directly or indirectly by the Federal Government.

7. *Limitations on allowance of costs.* Sponsored agreements may be subject to statutory requirements that limit the allowance of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Circular, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements.

D. DIRECT COSTS

1. *General.* Direct costs are those costs that can be identified specifically with a particular sponsored project, and instructional activity, or any other institutional activity; or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to sponsored agreements.* Identification with the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of sponsored agreements. Typical costs charged directly to a sponsored agreement are the compensation of employees for performance of work under the sponsored agreement, including related fringe benefit costs to the extent they are consistently treated, in like circumstances, by the institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of the work; and other items of expense incurred for the sponsored agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of sponsored agreements, provided such items are consistently treated, in like circumstances, by the institution as direct rather than indirect costs, and are charged under a recognized method of computing actual costs, and conform to generally accepted cost accounting practices consistently followed by the institution.

E. INDIRECT COSTS

1. *General.* Indirect costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, and instructional activity, or any other institutional activity. At educational institutions such costs normally are classified under the following indirect cost categories: depreciation and use allowances, general administration and general expenses, sponsored projects administration expenses, operation and maintenance expenses, library expenses, departmental administration expenses, and student administration and services.

2. *Criteria for distribution.*

3. *Base period.* A base period for distribution of indirect costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the indirect cost allocation process is to distribute the indirect costs described in Section F to the major functions of the institution in proportions reasonably consistent with the nature and extent of their use of the institution's resources. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the indirect cost categories referred to in E1 above. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c below. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in the light of the guides set forth in d below.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groupings (based on account classification or analysis) within an indirect cost category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expenses should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in E2b and d.

(2) Where any types of expense ordinarily treated as general administration or departmental administration are charged to sponsored agreements as direct costs, expenses applicable to other activities of the institution when incurred for the same purposes in like circumstances must, through separate cost groupings, be excluded from the indirect costs allocable to those sponsored agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost gouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(4) Where activities provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general espenses, or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat fringe benefits as indirect charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives.

(6) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. Selection of distribution method.

(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing individual cost groupings. The essential consideration in selecting a base is that it be the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

(2) Where a cost grouping can be identified directly with the cost objective benefitted, it should be assigned to that cost objective.

(3) Where the expenses in a cost grouping are more general in nature, the distribution may be based on a cost analysis study which results in an equitable distribution of the costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if appropriate. Cost analysis studies, however, must (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the costs to the related cost objectives in accordance with the relative benefits derived, (c) be statistically sound, (d) be performed specifically at the institution at which the results are to be used, and (e) be reviewed periodically, but not less frequently than every two years, updated if necessary, and used consistently. Any assumptions made in the study must be stated and explained. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(4) If a cost analysis study is not performed, or if the study does not result in an equitable distribution of the costs, the distribution shall be made in accordance with the appropriate base cited in Section F., unless one of the following conditions is met: (a) it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored agreements, or (b) the institution qualifies for, and elects to use, the simplified method for computing indirect cost rates described in Section H.

e. Order of Distribution.

(1) Indirect cost categories consist of depreciation and use allowance, operation and maintenance, general administration and general expenses, departmental administration, sponsored projects administration, library, and student administration and services, as described in Section F.

(2) Depreciation and use allowances, operation and maintenance expenses, and general administrative and general expenses should be allocated in that order to the remaining indirect cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in (3) below, this order of allocation does not apply.

(3) Normally an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect cost categories may be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories described in Section F is required.

F. IDENTIFICATION AND ASSIGNMENT OF INDIRECT COSTS

1. *Depreciation and use allowances.*

a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with Section J9.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be allocated in the following manner:

(1) Depreciation or use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, shall be assigned to that function.

(2) Depreciation or use allowances on buildings, used for more than one function, and on capital improvements and equipment used in such buildings, shall be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas such as hallways, stairwells, and restrooms.

(3) Depreciation or use allowances on buildings and capital improvements where space is used jointly, and on equipment used jointly, shall be allocated to benefiting functions in proportion to the total salaries and wages applicable to the joint functions.

(4) Depreciation or use allowances on buildings, capital improvements, and equipment used predominantly for one function and only incidentally for other(s), may be assigned to the function in which it is used predominantly.

(5) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, shall be allocated to user categories of students and employees on a full-time equivalent basis. The amount allocated to the student category shall be assigned to the instruction function of the institution. The amount allocated to the employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

2. *Operation and maintenance expenses.*

a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expenses category should also include the fringe benefit costs applicable to the salaries and wages included therein, and depreciation and use allowance.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be allocated in the same manner as described in Section F1b for depreciation and use allowances.

3. *General administration and general expenses.*

a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major function of the institution; i.e., solely to (1) instruction, (2) organized research, (3) other sponsored activities, or (4) other institutional activities. The general administration and general expense category should also include the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of operation and maintenance expense, and depreciation and use allowances.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be grouped first according to common major functions of the institution to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to serviced or benefited functions on the modified total cost basis. Modified total costs consist of salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to $25,000 each. When an activity included in this indirect cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

4. *Departmental administration expenses.*

a. The expenses under this heading are those that have been incurred for administrative and supporting services that benefit common or joint departmental activities or

objectives in academic deans' offices, academic departments and divisions, and organized research institutes, study centers, and research centers. Departmental administration expenses are subject to the following limitations.

(1) Academic deans' offices. Salaries and operating expenses are limited to those attributable to administrative functions.

(2) Academic departments:

(a) The salaries of the heads of academic departments, divisions, and organized research units are limited to amounts attributable to their administrative duties. Salaries of professorial or professional staff, whose appointment or assignment require administrative work that benefits sponsored projects, may also be included to the extent that the portion so charged is clearly and specifically supported as required in Section J6.

(b) Other administrative and supporting expenses incurred within academic departments are allowable provided they are treated consistently in like circumstances. This would include expenses such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and the like.

(3) Other fringe benefit costs applicable to the salaries and wages included in (1) and (2) above are allowable, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation and/or use allowances.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be allocated as follows:

(1) The administrative expenses of the dean's office of each college and school shall be allocated to the academic departments within that college or school on the modified total cost basis.

(2) The administrative expenses of each academic department, and the department's share of the expenses allocated in (1) above shall be allocated to the appropriate functions of the department on the modified total coast basis.

5. *Sponsored projects administration.*

a. The expenses under this heading are those that have been incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and Non-Federal), special security, purchasing, personnel administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, his assistants, and their immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, stenographic pools, and the like. The salaries of professorial or professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to sponsored agreements administration is clearly identified and supported as required by Section J6. This category should also include the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, the operation and maintenance expenses, and depreciation and use allowance. Appropriate adjustments should be made for services provided to other functions or organizations.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be allocated to the major functions of the institution under which the sponsored projects are conducted on the basis of the modified total cost of sponsored projects.

c. An appropriate adjustment shall be made to eliminate any duplicate charges to sponsored agreements when this category includes similar or identical activities as those included in the general administration and general expense category or other indirect cost items, such as accounting, procurement, or personnel administration.

6. *Library expenses.*

a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under Section C5. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation and use allowances. Costs incurred in the purchases of rare books (museum-type books) with no value to sponsored agreements should not be allocated to them.

b. In the absence of the alternatives provided for in Section E2d, the expenses included in this category shall be allocated first on the basis of primary categories of users, including students, professionsl employees, and other users.

(1) The student category shall consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate.

(2) The professional employee category shall consist of all faculty members and other professional employees of the institution, on a full-time equivalent basis.

(3) The other users category shall consist of all other users of library facilities.

c. Amounts allocated in b above shall be assigned further as follows: (1) The amount in the student category shall be assigned to the instruction function of the institution.

(2) The amount in the professional employee category shall be assigned to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees applicable to those functions.

(3) The amount in the other users category shall be assigned to the other institutional activities function of the institution.

7. *Student administration and services.*

a. The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to Section J6. This expense category also includes the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, operation and maintenance, and use allowances and/or depreciation.

b. In the absence of the alternatives provided for in Section E2d, the expenses in this category shall be allocated to the instruction function, and subsequently to sponsored agreements in that function.

8. *Offset for indirect expenses otherwise provided for by the Government.*

a. The items to be accumulated under this heading are the reimbursements and other payments from the Federal Government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in F1 through 7 above.

b. The items in this group shall be treated as a credit to the affected individual indirect cost category before that category is allocated to benefiting functions.

G. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.*

a. Subject to b below, the separate categories of indirect costs allocated to each major function of the institution as prescribed in Section f shall be aggregated and treated as a common pool for that function. The amount in each pool shall be divided by the distribution base described in G2 below to arrive at a single indirect cost rate for each function. The rate for each function is used to distribute indirect costs to individual sponsored agreements of that function. Since a common pool established for each major function of the institution, a separate indirect cost rate would be established for each of the major functions described in Section B1 under which sponsored agreements are carried out.

b. In some instances a single rate basis for use across the board on all work within a major function at an institution may not be appropriate. A single rate for research, for example, might not take into account those different environmental factors and other conditions which may affect substantially the indirect costs applicable to a particular segment of research at the institution. A particular segment of research may be that performed under a single sponsored agreement or it may consist of research under a group of sponsored agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of a sponsored agreement is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the regular course of the rate determination process and the separate indirect cost rate resulting therefrom should be utilized; provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under a. above, and (2) the volume of work to which such rate would apply is material in relation

to other sponsored agreements at the institution.

2. *The distribution basis.* Indirect costs shall be distributed to applicable sponsored agreements on the basis of modified total direct costs, consisting of salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to $25,000 each. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to G1, above. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the modified total direct costs identified with such pool. Other bases may be used where it can be demonstrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's indirect services cannot be readily determined. Such negotiated indirect costs will be treated as an offset before allocation to instruction, organized research, other sponsored activities, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carry-forward provisions.* When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carry-forward adjustment is determined, the carry-forward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to sponsored agreements for the forecast period plus or minus the carry-forward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carry-forward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

H. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

1. *General.*

a. Where the total direct cost of work covered by this Circular at an institution does not exceed $3,000,000 in a fiscal year, the use of the simplified procedure described in 2, below, may be used in determining allowable indirect costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable to all sponsored agreements.

b. The simplified procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Simplified procedure.*

a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant; and depreciation and use allowances; after appropriate adjustment for costs applicable to other institutional activities.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under (1) above have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in a above the amount of salaries and wages included under b above.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool, b above, by the amount of the distribution base, c above.

e. Apply the indirect cost rate to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. GENERAL PROVISIONS FOR SELECTED ITEMS OF COST

Sections 1 through 44 below provide principles to be applied in establishing the allowability of certain items involved in determining cost. These principles should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific sponsored agreement and the provisions below, the agreement should govern.

1. *Advertising costs.*

a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the sponsored agreement, when considered in conjunction with all other recruitment costs, as set forth in Section J32; (2) the procurement of goods and services for the performance of the sponsored agreement; (3) the disposal of scrap or surplus materials acquired in the performance of the sponsored agreement except when institutions are reimbursed for disposal costs at a predetermined amount in accordance with Attachment N, OMB Circular No. A-110; or (4) other specific purposes necessary to meet the requirements of the sponsored agreement.

c. Costs of this nature, if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in Sections D and E are observed.

2. *Bad debts.* Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in Section J9. Costs of local civil defense projects not on the institution's premises are unallowable.

4. *Commencement and convocation costs.* Costs incurred for commencements and convocations are unallowable, except as provided for in Section F7.

5. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

6. *Compensation for personal services*

a. *General.* Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such amounts include salaries, wages, and fringe benefits (See Section J15.). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as indirect costs are determined and supported as provided below. Charges to sponsored agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. Incidental work (that in excess of normal for the individual), for which supplemental compensation is paid by an institution under institutional policy, need not be included in the payroll distribution systems described below, provided such work and compensation are separately identified and documented in the financial management system of the institution.

b. *Payroll distribution.* For each organizational unit of an institution, the distribution of salaries and wages of professorial or professional staff (whether charged direct or required to be distributed to more than one activity for purposes of allocating indirect costs) will be based on either a system of monitored workload or a system of personnel activity reports. The latter system will be used for nonprofessional employees whose costs are charged direct or are required to be distributed to more than one activity for purposes of allocating indirect costs. In the use of either method, it is recognized that, because of the nature of work involved in academic institutions, the various and often interrelated activities of professorial and professional employees frequently cannot be measured with a high degree of precision, that reliance must be placed on reasonably accurate approximations, and that acceptance of a degree of tolerance in measurement is appropriate.

c. *Monitored workload.* Under this method the distribution of salaries and wages applicable to sponsored agreements is based on budgeted or assigned workload, updated to reflect any significant changes in workload distributions. A monitored workload system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(1) A system of budgeted or assigned workload will be incorporated into the official records of the institution and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(2) The system will reasonably reflect workload of employees, accounting for 100 percent of the work for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. Because practices vary among institutions and within institutions as to the total activity constituting a full workload—when expressed in measurable units, such as contact hours in teaching—the system will be based on a determination for each individual, reflecting the ratio of each of the activities which comprise the total workload of the individual. (But see Section H for treatment of indirect costs under the simplified method for small institutions.)

(3) The system will provide for modification of an individual's salary or salary distribution commensurate with any significant change in the employee's workload or the ratio of activities comprising the total workload. A significant change in an employee's workload shall be considered to include the following as a minimum: when work begins or ends on a sponsored agreement, when a teaching load is materially modified, when additional unanticipated assignments are received or taken away, when an individual begins or ends a sabbatical leave, prolonged sick leave, or leave without pay, etc. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term such as an academic period. Whenever it is apparent that a change in workload will occur or has occurred, the change will be documented over the signature of a responsible official and, if significant, entered into the system.

(4) The system will utilize workload categories reflecting activity which is applicable to each sponsored agreement, each indirect cost activity, and each major function of the institution.

(5) At least annually a statement will be signed by the employee, principal investigator, or responsible official, having first hand knowledge of the work stating that salaries and wages charged to sponsored agreements as direct charges, or that salaries and wages charged to both direct and indirect cost categories, or to more than one indirect cost category are reasonable.

(6) The system will provide for independent internal evaluations to insure that it is working effectively.

(7) In the use of this method an institution shall not be required to provide additional support or documentation for the effort actually performed, but is responsible for assuring that the system meets the above standards.

d. *Personnel activity reports.* Under this system the distribution of salaries and wages will be supported by personnel activity reports as prescribed below.

(1) Personnel activity reports will reflect the distribution of activity expended by each employee covered by the system.

(2) The reports will reflect an after-the-fact reporting of the percentage of activity of each employee. Charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences are indicated by activity reports.

(3) Each report will account for 100-percent of the activity for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. The report will reasonable reflect the percentage of activity applicable to each sponsored agreement, each indirect cost category, and each major function of the institution.

(4) To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, each report will be signed by the employee or by a responsible official having first hand knowledge of the work performed.

(5) For professorial and professional staff, the reports will be prepared each academic term, but no less frequently than every six months. For other individuals, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

(6) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as a personnel activity report provided that they are meet the requirements in (1) through (5) above.

e. *Salary rates for faculty members.*

(1) *Salary rates for academic year.* Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.

(2) *Periods outside the academic year.*

(a) Except as otherwise specified for teaching activity in (b) below, charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates, and will be limited to charges made in accordance with other parts of this section. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

(b) Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

(3) *Pat-time faculty.* Charges for work performed on sponsored agreements by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for the part-time assignments; e.g., an institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one-half of $5,000, or $2,500.

f. *Noninstitutional professional activities.* Unless, an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution-wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for noninstitutional compensation. Where such institution-wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Government may require that the effort of professional staff working on sponsored agreements be allocated between (1) institutional activities, and (2) noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

7. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. (But see also Section J16c.)

8. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

9. *Depreciation and use allowances.* Institutions may be compensated for the use of their buildings, capital improvements, and equipment; provided that they are used, needed in the institutions' activities, and properly allocable to sponsored agreements. Such compensation shall be made by computing either depreciation or use allowance. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not computed. The allocation for depreciation or use allowance shall be made in accordance with Section F1. Depreciation and use allowances are computed applying the following rules:

a. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. For this purpose, the acquisition cost will exclude (1) the cost of land; (2) any portion of the cost of buildings and equipment borne by or donated by the Government, irrespective of where title was originally vested or where it is presently located; and (3) any portion of the cost of buildings and equipment contributed by or for the institution where law or agreement prohibit recovery. For an asset donated to the institution by a third party, its fair market value at the time of the donation shall be considered as the acquisition cost.

b. In the use of the depreciation method, the following shall be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency.

(3) Where the depreciation method is introduced for application to assets for which use allowance was previously charged, the aggregate amount of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets.

(4) When the depreciation method is used for buildings, a building "shell" may be treated separately from other building components, such as plumbing system and heating and air conditioning system. Each component item may then be depreciated over its estimated useful life. On the other hand, the entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life.

(5) Where the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that have outlived their depreciable lives. (But see also c(3), below.)

c. Under the use allowance method, the following shall be observed:

(1) The use allowance for buildigs and improvements (including improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost.

(2) In contrast to the depreciation method, the entire building must be treated as a single asset without separating its "shell" from other building components under the use allowance method. The entire building must be treated as a single asset, and the two-percent use allowance limitation must be applied to all parts of the building. The two-percent limitation, however, need not be applied to equipment or other assets that are merely attached or fastened to the building but not permanently fixed and are used as furnishings, decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, and carpeting). Such equipment and assets will be considered as not being permanently fixed to the building if they can be removed without the need for costly or extensive alterations or repairs to the building to make the space usable for other purposes. Equipment and assets which meet these criteria will be subject to the six and two-thirds percent equipment use allowance.

(3) A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the Government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any othe factors pertinent to the utilization of the asset for the purpose contemplated.

d. Except as otherwise provided in b and c above, a combination of the depreciation and use allowance methods may not be used, in like circumstances, for a single class of assets (e.g., buildings, office equipmet, and computer equipment).

e. Charges for use allowances or depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, when the depreciation method is used, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

10. *Donated services and property.* The value of donated services and property are not allowable either as a direct or indirect cost, except that depreciation or use allowances on donated assets are permitted in accordance with Section J9a. The value of donated services and property may be used to meet cost sharing or matching requirements, in accordance with OMB Circular No. A-110.

11. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees, counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs incurred for amusment, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other capital expenditures.*

a. For purposes of this paragraph, the following definitions apply:

(1) *Equipment* means an article of nonexpendable tangible personal property having a useful life or more than two years, and an acquisition cost of $500 or more per unit. However, consistent with institutional policy, lower limits may be established.

(2) *Capital expenditure* means the cost of the asset including the cost to put it in place. Capital expenditure for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the institution's regular accounting practices.

(3) *Special purpose equipment* means equipment which is used only for research, medical, scientific, or other technical activities.

(4) *General purpose equipment* means equipment, the use of which is not limited only to research, medical, scientific or other technical activities. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and the land are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(2) Capital expenditures for special purpose equipment are allowable as direct charges, provided that the acquisition of items having a unit cost of $1,000 or more is approved in advance by the sponsoring agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(4) Capital expenditures are unallowable as indirect costs. But see Section J9 for allowability of depreciation or use allowance on buildings, capital improvements, and equipment. Also see Section J33 for allowability of rental costs on land, buildings, and equipment.

14. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the sponsored agreement, or instructions in writing from the contracting officer or equivalent.

15. *Fringe benefits.*

a. Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable, provided such costs are distributed to all institutional activities in proportion to the relative amount of time or effort actually devoted by the employees. See Section J35 for treatment of sabbatical leave.

b. Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees or their families and the like are allowable, provided such benefits are granted in accordance with established institutional policies, and are distributed to all institutional activities on an equitable basis. See Section J36b for treatment of tuition remission provided to students.

c. Rules for pension plan costs are as follows:

(1) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided (a) such policies meet the test of reasonableness; (b) the methods of cost allocation are equitable for all activities; (c) the amount of pension cost assigned to each fiscal year is determined in accordance with (2) below; and (d) the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that year.

(2) The amount of pension cost assigned to each fiscal year shall be determined in accordance with generally accepted accounting principles. Institutions may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Cost" (4 CFR Part 412).

(3) Premiums paid for pension plan termination insurance pursuant to the Employee Retirement Income Security Act of 1974 (Public Law 93-406) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under the Employee Retirement Income Security Act are also unallowable.

d. Fringe benefit may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of the salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, if the costs in relationship to salaries and wages differ significantly for different groups of employees. Also fringe benefits related to institutional salaries and wages treated as direct costs may be treated as direct costs.

16. *Insurance and indemnification.*

a. Costs of insurance required or approve, and maintained, pursuant to the sponsored agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable, except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for a self-insurance program are allowable, to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (whether through purchased incurance or self-insurance) are unallowable, unless expressly provided for in the sponsored agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the sponsored agreement, except as provided in d above.

17. *Interest, fund raising, and investment management costs.*

a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

d. Costs related to the physical custody and control of monies and securities are allowable.

18. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

19. *Losses on other sponsered agreements or contracts.* Any excess of costs over income under any other sponsored agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

20. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

21. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the sponsored agreement, are allowable. Purchases made specifically for the sponsored agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the sponsored agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the sponsored agreement. Where Government-donated or furnished material is used in performing the sponsored agreement, such material will be used without charge.

22. *Memberships, subscriptions and professional activity costs.*

a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

23. *Patent costs.* Costs of preparing disclosures, reports, and other documents required by the sponsored agreement, and of

searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the sponsored agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also Section J34.)

24. *Plant security costs.* Necessary expenses incurred to comply with security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

25. *Preagreement costs.* Costs incurred prior to the effective date of the sponsored agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless approved by the sponsoring agency.

26. *Professional services costs.*

a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to b and c below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of sponsored agreements; (2) the impact of sponsored agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored agreements.

27. *Profits and losses on disposition of plant equipment or other capital assets.* Profits or losses arising from the sale or exchange of plant, facilities, equipment or other capital assets, including sale or exchange of either short-term or long-term investments, shall not be considered in computing the costs of sponsored agreements except for pension plans as provided in Section J15c. When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds shall be made in accordance with Attachment N, OMB Circular No. A-110.

28. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential Government and nongovernment sponsored agreements or projects, including the development of data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable to the current period. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.* Cost of news releases pertaining to specific research or scientific accomplishment are allowable, when they result from performance of sponsored agreements.

30. *Rearrangement and alteration costs.* Cost incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency.

31. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of a sponsored agreement, fair wear and tear excepted, are allowable.

32. *Recruiting costs.*

a. Subject to b, c, and d below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professionsl personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Rental cost of buildings and equipment.*

a. Rental costs of buildings or equipment are allowable to the extent that the decision to rent or lease is in accord with Section C-3. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

b. Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed if the institution continued to own the property.

c. Rental costs under "less-than-arms-length" leases are allowable only up to the amount that would be allowed if the institution owned the property. For this purpose, a "less-than-arms-length" lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other.

d. Where significant rental costs are incurred under leases which create a material equity in the leased property, they are allowable only up to the amount that would be allowed if the institution purchased the property on the date the lease agreement was executed. For this purpose, a material equity in the property exists when the lease:

(1) is noncancelable or is cancelable only upon the occurrence of some remote contingency, and

(2) has one or more of the following characteristics:

(a) Title to the property passes to the institution at some time during or after the lease period.

(b) The term of the lease corresponds substantially to the estimated useful life of the property (i.e., the period of economic usefulness to the legal owner of the property).

(c) The initial term is less than the useful life of the property and the institution has the option to renew the lease for the remaining useful life at substantially less than fair rental value.

(d) The property was acquired by the leasor to meet the special needs of the institution and will probably be usuable only for that purpose and only by the institution.

(e) The institution has the right, during or at the expiration of the lease, to purchase the property at a price which at the inception of the lease appears to be substantially less that the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option), except for any discount normally given to educational institutions.

34. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the sponsored agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

35. *Sabbatical leave costs.* Costs of leave of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engagd in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

36. *Scholarships and student aid costs.*

a. Costs of scholarships, fellowships, and other programs of student aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition re-

mission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that (1) there is a bonafide employer-employee relationship between the student and the institution for the work performed, (2) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

b. Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements stipulated in Section J6, and shall be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis.

37. *Severance pay.*

a. Severance pay is compensation in addition to regular salary and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal recurring turnover and which otherwise meet the conditions of a above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

38. *Specialized service facilities.*

a. The costs of institutional services involving the use of highly complex or specialized facilities such as electronic computers, wind tunnels, and reactors are allowable, provided the charge for the service meets the conditions of b through d below.

b. The cost of each service normally shall consist of both its direct costs and its allocable share of indirect costs with deductions for appropriate income or Federal financing as describing in Section C5.

c. The cost of such institutional services when material in amount will be charged directly to users, including sponsored agreements based on actual use of the services and a schedule of rates that does not discriminate between federally and nonfederally supported activities of the institution, including used by the institution for internal purposes. Charges for the use of specialized facilities should be designed to recover not more than the aggregate cost of the services over a long-term period agreed to by the institution and the cognizant Federal agency. Accordingly, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year as long as rates are reviewed periodically for consistency with the long-term plan and adjusted if necessary.

d. Where the costs incurred for such institutional services are not material, they may be allocated as indirect costs. Such arrangements must be agreed to by the institution and the cognizant Federal agency.

e. Where it is in the best interest of the Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

39. *Special services costs.* Costs incurred for general public relations activities, alumni activities, and similar services, are unallowable.

40. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the sponsored agreements.

41. *Taxes.*

a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable. Payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government, and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and (2) special assesssments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as sponsored agreement costs, will be credited or paid to the Government in the manner directed by the Government. However, any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

42. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the sponsored agreement, should be treated as a direct cost.

43. *Travel costs.*

a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c, d, e, and f below, when they are directly attributable to specific work under a sponsored agreement or are incurred in the normal course of administration of the institution or a department or program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for an organization located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country.

f. Domestic travel costs are allowable when permitted by the sponsored agreement. Expenditures for such travel will not be allowed if they exceed the amount specified by more than 25% or $500, whichever is greater, except with an advanced approval of the sponsoring agency.

44. *Termination costs applicable to sponsored agreements.*

a. Termination of sponsored agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Circular in the case of termination.

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure

of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement, except when the institution is reimbursed for disposals at a predetermined amount in accordance with the provisions of Circular No. A-110.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. CERTIFICATION OF CHARGES

To assure that expenditures for sponsored agreements are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents."

[FR Doc. 79-6448 Filed 3-5-79; 8:45 am]

federal register

TUESDAY, MARCH 6, 1979

PART IV

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

REQUIREMENT TO WITHDRAW OR SUPPLEMENT PROPOSALS TO DETERMINE VARIOUS U.S. TAXA OF PLANTS AND WILDLIFE AS ENDANGERED OR THREATENED OR TO DETERMINE CRITICAL HABITAT FOR SUCH SPECIES

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Requirement to withdraw or supplement proposals to determine various U.S. taxa of plants and wildlife as Endangered or Threatened or to determine Critical Habitat for such species.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service provides notice that proposals to list certain species of plants and wildlife as Endangered or Threatened or to determine Critical Habitat for such species pursuant to the Endangered Species Act of 1973 do not meet requirements set forth in the Endangered Species Act Amendments of 1978 (Public Law 95-632, 92 Stat. 3751). Proposals to list species will require supplementation prior to the issuance of final rules. Specifically, the Service will determine whether critical habitat should be proposed for these species. Proposals to determine Critical Habitat are withdrawn and will require re-proposal if appropriate.

FOR FURTHER INFORMATION CONTACT:

John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703-235-2771).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Service has made a number of proposals to list species of plants and wildlife as Endangered or Threatened or to determine Critical Habitat for such species pursuant to the Endangered Species Act of 1973. These proposals, made before the Endangered Species Act Amendments of 1978 (hereinafter, Amendments) became effective, do not fulfill certain requirements set forth in that legislation. Specifically, the Amendments require that:

1. A proposal to list a species as Endangered or Threatened be accompanied, to the maximum extent prudent, by a specification of Critical Habitat for the species to be listed, and that notice of any proposal which specifies Critical Habitat be published in a newspaper of general circulation in or adjacent to such habitat.

2. The substance of the FEDERAL REGISTER notice of any proposal to determine a species as Endangered or Threatened or specify its Critical Habitat be offered for publication in appropriate scientific journals.

3. All general local governments located within or adjacent to a proposed Critical Habitat be notified of the proposed regulation at least 60 days before its effective date.

4. A public meeting (and if requested, a public hearing) be held on any proposed regulation which specifies Critical Habitat within the area in which such habitat is located in each State, and, if requested in each such State.

5. A public meeting be held on a proposed regulation which does not specify Critical Habitat if such a meeting is requested by any person within 45 days of the date of publication of the notice of proposal.

6. Any proposed regulation which includes a specification of Critical Habitat be accompanied by a brief description and evaluation of those activities which may adversely modify such habitat or may be impacted by such specification.

7. In determining the Critical Habitat of any Endangered or Threatened species, consideration be made of the economic impact, and any other relevant impacts, of specifying any particular area as Critical Habitat and that any such area may be excluded from a Critical Habitat if the benefits of such exclusion are found to outweigh the benefits of specifying the area as part of the Critical Habitat and if the exclusion would not result in the extinction of the species.

Actions affected by these requirements include:

1. Proposals to list species. These now require supplementation, to the maximum extent prudent, by proposals of Critical Habitat as a result, the Service will propose critical habitat for these species if appropriate. The public will be afforded full opportunity to comment on any such proposal;

2. Proposals to determine Critical Habitat. These are withdrawn, and

3. Proposals to list species and determine Critical Habitat. These are withdrawn only to the extent that they propose Critical Habitat and otherwise require supplementation by proposal of Critical Habitat in the manner discussed above.

All withdrawals made pursuant to this notice are conducted voluntarily by the Service to comply with the provisions of the Endangered Species Act Amendments of 1978 set out above. Because the withdrawals are not required by section 11(5) of the Amendments, the Service need not comply with the requirements of that section prior to reproposal.

Affected proposals are listed below, referenced by publication of notice in the FEDERAL REGISTER:

Proposed title	Date of notice	FR reference
Proposed Endangered status for 216 species appearing on Convention on International Trade [1].	Sept. 26, 1975	40 FR 44329-33
Proposed Endangered or Threatened status for 32 U.S. snails [2]	April 23, 1976	41 FR 17742-6
Proposal to determine 2 birds, 1 lizard, 3 snails, and 1 insect, all indigenous to the California Channel Islands, to be Endangered species [3].	June 1, 1976	41 FR 22073-5
Proposed Endangered status for some 1700 U.S. vascular plant taxa [4]	June 16, 1976	41 FR 24524-72
Proposed determination of Critical Habitat for Grizzly Bear	Nov. 5, 1976	41 FR 48757-9
Proposed Endangered or Threatened status for 41 U.S. species of Fauna [5].	Jan. 12, 1977	42 FR 2507-15
Proposed determination of Critical Habitat for 6 butterflies and 2 plants [6].	Feb. 8, 1977	42 FR 7972-75
Proposed Threatened status and Critical Habitat for the black toad	March 11, 1977	42 FR 13567-69
Proposed determination of Critical Habitat for the Houston Toad [7]	May 26, 1977	42 FR 27009-11
Proposed determination of Critical Habitat for the woundfin	Nov. 2, 1977	42 FR 57329-30
Proposed Endangered status and Critical Habitat for 4 fishes	Nov. 29, 1977	42 FR 60763-63
Proposed Endangered listing and Critical Habitat determination for the Virginia and Ozark big-eared bats.	Dec. 2, 1977	42 FR 61290-92
Proposed Endangered status and Critical Habitat for 5 fishes	Dec. 30, 1977	42 FR 65209-12
Proposed Endangered status for the bonytail chub and Threatened status for the razor back sucker.	April 24, 1978	43 FR 17375-77
Proposed determination of Critical Habitat for the Maryland darter	May 12, 1978	43 FR 20518-19
Proposed Endangered status and Critical Habitat for 2 species of Turtles.	May 19, 1978	43 FR 21702-5
Proposed determination of Critical Habitat for the hawksbill sea turtle.	May 24, 1978	43 FR 22224-5
Proposed listing and Critical Habitat determination for 2 Hawaiian cave arthropods.	June 16, 1978	43 FR 26034-7
Proposed determination of Critical Habitat for the Santa Cruz long-toed salamander.	June 22, 1978	43 FR 26759-60
Proposed Endangered or Threatened status or Critical Habitat for 10 butterflies or moths.	July 3, 1978	43 FR 28938-45
Proposed Endangered status and Critical Habitat for the Illinois mud turtle.	July 6, 1978	43 FR 29152-4
Proposed listing and Critical Habitat determination for a fish and a salamander.	July 14, 1978	43 FR 30316-9
Proposed Endangered or Threatened status and Critical Habitat for 10 beetles.	Aug. 10, 1978	43 FR 35636-43
Proposed Endangered and Threatened status and Critical Habitat for 3 Texas fishes.	Aug. 15, 1978	43 FR 36117-20
Proposed Critical Habitat for the whooping crane	Aug. 17, 1978	43 FR 36588-90
Proposed Endangered status and Critical Habitat for the Beaver Dam Slope population of the desert tortoise.	Aug. 23, 1978	43 FR 37662-5
Proposed Endangered status and Critical Habitat for the Virgin River chub.	Aug. 23, 1978	43 FR 37668-70
Proposed Critical Habitat for the Colorado squawfish	Sept. 14, 1978	43 FR 41060-2
Proposed listing and Critical Habitat determination for the Coachella Valley fringe-toed lizard.	Sept. 28, 1978	43 FR 44806-8

[1] Requires supplementation only insofar as it applies to the species listed below. The remaining taxa affected by this proposal have already been the subjects of a final rulemaking.

Mollusks:

Lampsilis satura—plain pocketbook mussel.

[2] Requires supplementation except insofar as it applies to the species listed below, which have already been the subject of a final rulemaking.

Snails:

Anguispira picta—painted snake coiled forest snail.
Discus macclintocki—Iowa Pleistocene snail.
Mesodon clarki nantahala—noonday snail.
Orthalicus reses—Stock Island tree snail.
Polygyriscus virginianus—Virginia fringed mountain snail.
Succinea chittenangoensis—Chittenango ovate amber snail.
Triodopsis platysayides—flat-spired three-toothed snail.

[3] Requires supplementation only insofar as it applies to the species listed below. The remaining taxa affected by this proposal have either been previously withdrawn or have already been the subjects of a final rulemaking.

Insects:

Coenonycha clementina—San Clemente coenonycha beetle.

[4] Requires supplementation except insofar as it applies to the following species, which have already been subjects of final rulemakings.

Plants:

Betulaceae, Birch family: *Betula uber*—Virginia round-leaf birch.
Brassicaceae, Mustard family:
Arabis macdonaldiana—McDonald's rock cress.
Erysimum capitatum var. *angustatum*—Contra Costa wallflower.
Crassulaceae, Stonecrop family: *Dudleya traskiae*—Santa Barbara Island liveforever.
Fabaceae, Pea family:
Astragalus perianus—Rydberg milk-vetch.
Baptisia arachnifera—hairy rattleweed.
Lotus scoparius ssp. *traskiae*—San Clemente broom.
Vicia menziesii—Hawaiian wild broad-bean.
Hydrophyllaceae, Waterleaf family: *Phacelia argillacea*—unnamed phacelia.
Lamiaceae, Mint family: *Pogogyne abramsii*—San Diego pogogyne.
Liliaceae, Lilly family: *Trillium persistens*—persistent trillium.
Malvaceae, Mallow family: *Malacothamnus clementinus*—San Clemente Island bushmallow.
Onagraceae, Evening-primrose family:
Oenothera avita ssp. *eurekensis*—Eureka evening-primrose.
Oenothera deltoides ssp. *howellii*—Antioch Dunes evening primrose.

Poaceae, Grass family:
Orcuttia mucronata—Crampton's Orcutt grass.
Swallenia alexandrae—Eureka dune grass.
Zizania texana—Texas wild-rice.
Ranunculaceae, Buttercup family:
Aconitum noveboracense—northern wild monkshood.
Delphinium kinkiense—San Clemente Island larkspur.
Scrophulariaceae, Snapdragon family:
Castilleja grisea—San Clemente Island Indian paintbrush.
Cordylanthus maritimus ssp. *maritimus*—salt marsh bird's beak.
Pedicularis furbishiae—Furbish lousewort.

[5]Requires supplementation except insofar as it applies to the following species, which have already been the subjects of a final rulemaking.

Fishes:
Etheostoma boschungi—Slackwater dater.
Hybopsis cahni—Slender chub.
Hybopsis monacha—Spotfin chub.
Noturus flavipinnis—Yellowfin madtom.
Speoplatyrhinus poulsoni—Alabama cave fish.

[6]Withdrawn except insofar as it applies to the following species, which have already been the subject of a final rulemaking.

Plants:
Brassicaceae, Mustard family: *Erysimum capitatum* var. *angustatum*—Contra Costa wallflower.
Onagraceae: *Oenothera deltoides* ssp. *howellii*—Antioch Dunes evening-primrose.

[7]Withdrawn insofar as it applies to areas C, D(3), D(4), D(5), and D(6). The other proposed areas have either been previously withdrawn or have been subjects of a final rulemaking.

Comments received from the public concerning the proposals will be considered in the formulation of supplements to meet the requirements of the Amendments. In addition, comments concerning supplemented proposals will be solicited by letter from all persons who have made substantive comments on the original proposals.

The primary author of this notice is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: February 26, 1979.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 79-6675 Filed 3-5-79; 8:45 am]

TUESDAY, MARCH 6, 1979
PART V

federal register

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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RHESUS MACAQUE IN BANGLEDESH; REMOVAL OF CONSIDERATION FOR LISTING AS AN ENDANGERED OR THREATENED SPECIES

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Rhesus Macaque in Bangledesh; Removal of Consideration for Listing as an Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of the Rhesus macaque in Bangladesh as a candidate for Endangered or Threatened status pursuant to the Endangered Species Act of 1973.

SUMMARY: Under petition, the Service has been reviewing the status of the Rhesus macaque (*Macaca mulatta*) in Bangladesh to determine whether it qualifies for listing as an Endangered or Threatened species pursuant to the Endangered Species Act of 1973, 43 FR 15463, April 10, 1978. Based upon an evaluation of the supporting data provided by the petitioner, data and comments provided by other interested parties, and an evaluation of the Act's criteria for listing, the Service now determines that this population of Rhesus monkey does not qualify as a candidate for listing, and for the present abandons any further investigation into the matter.

FOR FURTHER INFORMATION CONTACT:

Keith M. Schreiner, Associate Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240 202/343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 19, 1977, the Service was petitioned to list the Bangladesh population of the Rhesus macaque (*Macaca mulatta*) as an Endangered species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531-1543. The petitioner submitted in support of the petition a report entitled *Primates of Blangladesh: A Preliminary Survey of Population and Habitat.* The Service considered this report to be sufficiently substantial to warrant a review of the status of this species as authorized by Sec. 4(c)(2) of the Act, and on April 13, 1978, published a Notice of Review to that effect in the Federal Register, 43 FR 15463. Subsequently, the Service contacted knowledgeable agencies and individuals, as well as the Government of Bangladesh, to determine if a proposed rulemaking to list the Rhesus macaque in Bangladesh was warranted. This review has now been completed, and it is the Service's view that such a proposal is not justified.

The Rhesus macaque is one of the most widely distributed members of the genus *Macaca.* Ellerman and Morrison-Scott (*Palaearctic and Indian Mammals,* 1966) give its distribution as eastern Assam and Burma, south approximately to the Tapti River (Khandesh) and the Godavari in Northern Peninsular India, Siam, Indo-China, Szechuan, and Yunan, eastward to Fukien and adjacent states in southern China, Hainan, Tibet, and the neighborhood of Peking. Thus, the species is distributed in an area of well over 5,000,000 square miles, where it inhabits forests, mountain regions, cultivated areas and riverbanks. Habitat disruption in this region has not had a particularly adverse effect upon it since it adapts readily to man's civilization; Southwick reported that in the north Indian village of Uttar Predesh, 48 percent of all local monkeys occupied the villages, 30 percent the cities, and others were found along roads or in temples. In India, love of animals is part of the religion and the protection thus afforded has resulted in over-population at some times and places. Mass captures and exports in recent years, however, have decreased the numbers of rhesus monkeys in many areas, but India has now imposed an effective export ban which should improve the outlook for the species in that country.

Bangladesh, with an area of about 55,000 sq. mi. comprises approximately 1 percent of the overall range of the Rhesus macaque. The subspecies occurring in this country is the nominate race which comprises about 90 to 95 percent of the population of the entire species, including those populations that occur in most of India and China. Thus, the Bangladesh population is not a unique form or subspecies which is different from adjacent populations; it is indistinquishable from the vast majority of Rhesus macaques occurring from western India to eastern China.

With regard to this population in Bangladesh, the Service feels that the biological data submitted by the petitioner are insufficient to proceed with a proposal for its listing. When the Notice of Review was published in April, 1978, the Service contacted the Government of Bangladesh as well as all knowledgeable and concerned agencies and individuals in an attempt to gather more information on the status of the species. No response was forthcoming from the Government of Bangladesh, but nine letters were received from agencies and individuals commenting on the notice. None of these letters contained any substantial information or data on the status of this monkey in Bangladesh and hence the Service is required to depend entirely upon the data provided by the petitioner in order to make a decision in the matter. The Service now feels that these data, although substantial enough to call for a Notice of Review, are not sufficient to proceed further with a proposed rulemaking. The basic flaw in the data provided by the petitioner is that it is based upon a very limited survey, and that he was unable to enter the two major forest regions of Bangladesh, the Sundarbans and Chitagong Hill Tracts. In fact, the petitioner himself admits that the effectiveness of his survey was reduced because of this. Even so, the petitioner's estimate of 35,000 rhesus macaques in Bangladesh would seem like a fairly substantial number of animals considering the meager amount of habitat in the country, and the tremendous havoc that has been wrought on Bangladesh wildlife in general in recent years.

Because the data submitted to support a listing are based upon a limited survey, and no additional data became available during the notice of review to support a proposal for listing, the Service does not feel that it is justified in proposing the Bangladesh population of the Rhesus macaque as either Endangered or Threatened at this time. If evidence in the future becomes available which indicates the species should be listed under the Act, the Service will reconsider the matter in light of the new evidence.

This notice was prepared by John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Phone (202) 343-7814.

Dated: February 26, 1979.

LYNN A. GREENWALT,

Director, Fish and Wildlife Service.

[FR Doc. 79-6676 Filed 3-5-79; 8:45 am]

Federal Register

TUESDAY, MARCH 6, 1979

PART VI

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

REVIEW OF THE STATUS OF THE SAN ESTEBAN ISLAND CHUCKWALLA

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of the Status of the San Esteban Island Chuckwalla

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of the status of the San Esteban Island Chuckwalla.

SUMMARY: The Service will review the status of the San Esteban Island chuckwalla (*Sauromalus varius*) to determine if it should be listed as Endangered or Threatened. This status review is being conducted because this species has a very limited range and is subject to exploitation by the pet industry.

DATES: Information regarding the status of this species should be submitted on or before June 4, 1979.

ADDRESSES: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold O'Conner, Acting Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND.

On December 20, 1978, the Fish and Wildlife Service was petitioned by Dr. Ted Case of the University of California—San Diego to list the San Esteban Island chuckwalla, *Sauromalus varius*, as either endangered or threatened under provisions of the Endangered Species Act of 1973. Aside from the unique biological attributes of this species, including limited range, uncommonness within its habitat, very low reproductive rates, and low predation rates, Dr. Case believes the chuckwalla should be listed because the lizard is subject to human predation for the pet industry. Because of the life history characteristics of this species, Dr. Case feels that collection for the pet trade could seriously harm the species' survival in the wild.

The genus *Sauromalus*, contains eight species, many of which are known only from an island or series of islands in the Gulf of California. All are vegetarians; *S. varius* feeds primarily on cactus fruit. Little work has been conducted on the San Esteban Island chuckwalla and Dr. Case's studies, as yet unpublished, are the first to examine its life history in detail. These lizards are the largest in North America outside the tropics and are morphologically, genetically, and ecologically distinct from their relatives on the mainland. Individuals are usually found in small groups suggesting a unique social organization.

S. varius occurs only on 43 km² San Esteban Island where its major habitat is a single arroyo that runs along the southeast corner of the island. Dr. Case has estimated that the density of lizards is about nine animals per acre in choice habitat. He therefore estimates the population at about 4500 animals.

Reproductive rates appear extremely low. Of 500 animals that Dr. Case observed in the field or in museums, only two were juveniles. During the 10 years of his study, most adult females did not breed although some became gravid during 2 years when sufficient rainfall occurred during which cactus fruit became abundant. Therefore, population recruitment may be dependent on food supply (and therefore, rainfall), which is quite sporadic. Reproductive maturity is not reached until the age of 5 or 6 years.

Predation rates are low on the chuckwallas and, until recently, man has not seriously threatened them. Dr. Case believes they have exceptional longevity. A species such as this would therefore appear to be a K-selected species, and thus seriously prone to disturbances affecting population structure. Such disturbance has recently come in the form of the pet trade; 100 animals were collected recently and sold to a supply house in California. The large size and rarity of the lizards has made them attractive to those interested in exotic pets. If this trend continues or accelerates, as Dr. Case fears, then the unique San Esteban Island chuckwalla could be seriously threatened in its limited and unprotected habitat. For these reasons, the Service believes the threats to, and status of, this species should be carefully reviewed.

The Director of the Service is hereby seeking the views of all persons who have information on the status of his species, as well as the views of the government of Mexico, to determine if sufficient biological data exist to warrant a proposal as either Endangered or Threatened under provisions of the Act. All interested persons are invited to submit any factual information, especially publications and written reports, which is germane to this status review.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235-1975).

Dated: February 26, 1979.

LYNN A. GREENWALT,

Director, Fish and Wildlife Service.

[FR Doc. 79-6677 Filed 3-5-79; 8:45 am]

Federal Register

TUESDAY, MARCH 6, 1979

PART VII

DEPARTMENT OF LABOR

Employment and Training Administration

■

SUMMER YOUTH EMPLOYMENT PROGRAM

Implementation Regulations for Summer

[4510-30-M]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 675—INTRODUCTION TO THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart C—Summer Youth Employment Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rules.

SUMMARY: This document contains final rules for the Summer Youth Employment Program (SYEP) under the Comprehensive Employment and Training Act. The purpose of this document is to implement the Summer Youth Employment program for the summer of 1979.

DATES: Effective date of these rules is April 1, 1979. Comments on the final rules are requested by April 6, 1979.

ADDRESS: Comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213, Attention: Robert Taggart, Administrator, Office of Youth Programs.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taggart, Telephone: 202-376-2646.

SUPPLEMENTARY INFORMATION: The Summer Youth Employment Program (SYEP) is authorized by Title IV, Part C of the Comprehensive Employment and Training Act (CETA). Prior to this year, that is, before the reauthorization of CETA in October, 1978, the summer youth program was authorized by Section 304(c)(3) of the Comprehensive Employment and Training Act of 1973; it was known as the Summer Program for Economically Disadvantaged Youths (SPEDY).

Regulations for the 1978 SPEDY program were published in the FEDERAL REGISTER on May 19, 1978, and may be found at 29 CFR Part 97, subpart A. The regulations issued in this document will govern the summer youth program, now known as the Summer Youth Employment Program (SYEP) for 1979.

Last year, the SYEP regulations were rewritten to strengthen management and monitoring procedures and to prevent program abuse. The regulations being issued for SYEP in this document incorporate these safeguards and continue the kinds of procedures which were implemented in 1978. They are being published for title 20 of the Code of Federal Regulations, rather than for title 29, since title 20, Chapter V is reserved for the use of the Department's Employment and Training Administration, which administers all programs under CETA, including SYEP. Editorial and organizational changes have been made in the regulations in keeping with the Employment and Training Administration's current efforts to recodify all of the CETA regulations in title 20 to simplify the CETA regulations, and to eliminate unnecessary duplication.

The Department of Labor's regulation at 29 CFR 2.7 states that it is the policy of the Department of Labor to use proposed rulemaking procedures when issuing regulations for grant programs. The Secretary, however, in signing this document, is waiving the regulation at 29 CFR 2.7 for the following reasons: (1) These regulations, including the monitoring and management safeguards, continue the policies of last year's regulations; (2) Section 4(a)(2) of the CETA Amendments Act of 1978 requires that CETA, as reauthorized, be implemented by April 1, 1979; and (3) it is important that prime sponsors begin planning their 1979 summer programs as soon as possible to ensure, to the maximum extent possible, the effective and successful operation of this year's programs.

Nevertheless, even though this document contains final rules, the Department, in keeping with the spirit of 29 CFR 2.7, is requesting comments on these final rules. Changes in these rules may be made at a later date, depending upon the extent and nature of any comments.

Accordingly, title 20 of the Code of Federal Regulations, Chapter V, is amended as follows:

1. By adding a new Part 680 to read as follows:

PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subparts A and B—[Reserved]

Subpart C—Summer Youth Employment Program

Sec.

AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.), unless otherwise noted.

Subpart C—Summer Youth Employment Program

§ 680.200 Purpose.

(a) This subpart contains the regulations for that part of the Summer Youth Employment Program (SYEP) under Title IV, Part C of the Act which is operated by prime sponsors designated under § 676.5 of this Chapter. The introductory and general provisions at Parts 675 and 676 and the YETP regulations at subpart A of this Part also apply to the SYEP program. To the extent, however, that the regulations in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 484).

(b) The Summer Youth Employment Program shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under the Act. The programs shall be designed to meet the diverse individual needs of each participant. Among these are: (1) Structured and well supervised work; (2) opportunities to explore vocational interest; (3) job rotations to expose youth to different work settings; (4) vocational counseling and occupational information; (5) providing income to participants who without assistance would be unable to attend school; (6) meeting special employability needs; (7) services to induce and aid dropouts to return to school; and (8) placement into short-term subsidized employment leading to full-time unsubsidized employment for youth where return-to-school is not expected.

§ 680.201 Eligibility for SYEP funds.

Prime sponsors designated under § 676.5 are eligible to receive funds under SYEP (sec. 482).

§ 680.202 Allocation of funds.

Allocation of funds under SYEP shall be in accordance with section 483 of the Act.

§ 680.203 Unexpended previous year funds.

Unexpended summer program funds as of September 30 of each year shall be used in planning and designing the next year's summer program as described in § 680.204.

§ 680.204 Startup of program.

(a) During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in paragraph (b) below are permissible. Youth may not be compensated for participation in the program prior to the close of school.

(b) Upon approval by the RA, the following planning and design activities shall be allowable beginning October 1 of each year:

(1) Development of the SYEP annual plan subpart;

(2) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(3) Publication and clearance;

(4) Worksite development;

(5) Recruitment, intake and selection of participants;

(6) Arrangements for supportive services;

(7) Dissemination of program information, including orientation;

(8) Development of coordination between schools and other services;

(9) Staff training; and

(10) Other activities, with the approval of the RA, that may be characterized as planning and design but not program operation.

§ 680.205 Program planning; planning and youth councils.

(a) Each prime sponsor shall utilize the planning process and planning council, as described in §§ 676.6 and 676.7, and the youth council established under subpart A of this Part.

(b) In developing the SYEP annual plan subpart, the prime sponsor shall coordinate SYEP activities with programs for youth under Part 677 and subparts A and B of this Part (sec. 483(a)).

§ 680.206 Basic program design provisions.

Each prime sponsor shall:

(a) Provide services to those individuals most in need among its economically disadvantaged youth population, taking into account any priorities identified by the Secretary. Such services shall be provided on an equitable basis considering the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction;

(b) Design programs which are, to the maximum extent feasible, consistent with every participant's fullest capabilities;

(c) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return-to-school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors;

(d) Provide labor market orientation to all participants either on a group or individual basis;

(e) Make maximum efforts to develop cooperative relationships with other community resources so that SYEP activities, including worksite supervision, are provided in the summer program at no cost, or at minimum cost, to the summer program; and

(f) Make appropriate efforts to encourage local educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program.

§ 680.207 Description of the SYEP annual plan subpart.

(a) Each prime sponsor shall submit a SYEP subpart by a date established by the RA which, when approved, shall become part of the annual plan.

(b) The RA shall review, and approve or disapprove the SYEP subpart using the procedures in § 676.14.

(c) The SYEP subpart shall consist of the following items:

(1) Approval Request Letter;

(2) Application for Federal Assistance (Standard Form 424); and

(3) Narrative description.

(d) *Narrative description.* The narrative description shall contain:

(1) *Objectives and needs for assistance.* Using the requirements for the YETP narrative, provide a description of the purposes of the SYEP program and the target groups that will be served by the program.

(2) *Results and benefits.* Using the requirements for the YETP narrative, describe the participant benefits that will result from the program.

(3) *Approach.*

(i) *Program activities and services.* Provide a description of the program activities and services and indicate the delivery agent for each, the duration for each, and the target groups to be served by each activity.

(ii) *Program coordination and linkage.* If the linkages, including the Job Corps agreement, differ from those described in the YETP narrative, provide a description of these unique SYEP linkages.

(iii) *Worksites.*

(A) Attach a copy of a worksite agreement which is representative of the worksite agreements used for SYEP.

(B) Describe the training for worksite supervisors, and other worksite personnel with respect to their responsibilities under the SYEP. Indicate who will provide such training.

(iv) *Participant recruitment and selection.* (A) Describe the method(s) for recruiting youth, including out-of-school youth, if different than that described elsewhere in the Comprehensive Employment and Training Plan.

(B) Describe the method(s) that will be used to verify eligibility, if not described in the Comprehensive Employment and Training Plan, and attach a copy of, or list, the criteria that will be used to select the youth that are most in need.

(v) *Program orientation.* Attach appropriate materials or describe the methods that will be used to inform the summer participants of their rights and responsibilities under the SYEP and include the information to be covered and the service provider.

(vi) *Special components.* (A) Describe the labor market orientation component and indicate who will conduct the orientation.

(B) If a vocational exploration program (VEP) is to be funded under the SYEP, describe the program and indicate the number of participants and planned expenditures for the program, the organizations with which agreements have been written, the arrangements covered by these agreements, the occupations to which participants will be exposed, provide evidence of the approval by the affected collective bargaining agent(s), and if a nationally funded VEP is operating in the prime sponsor's area, identify the functions or activities the prime sponsor will perform for the nationally funded program.

(C) If an Entitlement project under subpart C of this Part is being funded and operated with SYEP funds, describe the project, number to be served, planned expenditures, and primary program activities.

(4) *Management and administration.*

(i) Describe any significant differences in the administration, operation, and management (including organizational structure) of the SYEP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Describe the results of or attach copies of any evaluation/assessment reports conducted on the last year's SYEP program which were used to set priorities and/or determine the programmatic goals for purpose of SYEP.

(iii) Attach copies, if any, of comments and recommendations received on the SYEP plan from the appropriate labor organizations, the youth council, the planning council, CBO's and LEA's.

(iv) If not elsewhere included in the Comprehensive Employment and Training Plan, describe the monitoring and evaluation process that will be used for the program.

(v) List any property items to be purchased which cost $1,000 or more, indicating the item, the quantity, and price.

(vi) Attach a copy of the Youth Program Planning Summary and Youth Budget Information Summary on the SYEP program.

(5) *Assurances and certifications.* The SYEP assurances and certifications and detailed instructions for completing the requirements of the SYEP annual plan subpart are contained in the *Forms Preparation Handbook.*

§ 680.208 Activities and services.

(a) Programs may include any employment and training activity or service specified in § 676.25 except public service employment. The provisions of § 676.25(c)(3) restricting outstationing at worksites shall not apply to SYEP.

(b) Prime sponsors operating Youth Incentive Entitlement Pilot Projects (YIEPP) under subpart C of this Part may use SYEP funds for their YIEPP program. The provisions of subpart C of this Part shall apply to SYEP funds used for this purpose.

§ 680.209 Program management provisions.

Each prime sponsor shall:

(a) Provide adequate skilled supervisors to participants at each worksite;

(b) Closely monitor the performance of service deliverers in compliance with the provisions of the regulations governing the summer program, particularly the provisions of paragraph (h) of this section. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor's established goals;

(c) Ensure that enrollee applications are widely available and that jobs are awarded among the most severely disadvantaged in an equitable fashion. Each prime sponsor shall inform each participant of the purposes of the program, the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for work activities in the program and require a signature of the applicant or (in the case of minors) the parent, responsible adult, or guardian attesting to the accuracy of the information, especially income data, provided on the application;

(d) When using contractors or subrecipients, enter into contracts or subgrants in accordance with § 676.37. Prime sponsors may enter into contracts or subgrants for those allowable activities or operations of the summer program only with organizations that have demonstrated sufficient program capability and shall have reasonable assurances that such organizations:

(1) Have sufficient capability to operate the program;

(2) Have the financial management capability required by § 676.34;

(3) Assure in their applications that all proposed worksites meet the requirements of this subpart, and that such worksites will meet the standards of § 680.210;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial non-compliance with the Act and regulations in operation during the terms of the previous year's summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all of their personnel will have basic training in the program and regulations before the summer program begins;

(e) Consider in selecting contractors or subrecipients the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants needs and local market demands);

(2) Provide the specific services contracted for;

(3) Restrict expenditures to allowable cost items, only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested;

(f) Require their contractors or subrecipients to:

(1) Have supervisory and operational personnel for monitoring each site to which participants are assigned;

(2) Assure that all sites, where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring;

(g) Compile and continually update a list of worksites divided by contractor and subrecipient to aid in its monitoring efforts and to be made available to the public on request;

(h) Visit worksites of each contractor or subrecipient on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is sufficient meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records are being maintained and accurately record time worked by each enrollee; and

(4) The requirements of the Act and this subpart are being met;

(i) Promptly review the reports written by its own and Federal monitors;

(j) Revisit worksites where monitors report problems; and

(k) Close worksites where it finds serious or continual violations of the Act, the regulations or conditions of the contract or subgrant, and which are not likely to be remedied by quick remedial action.

§ 680.210 Worksite standards.

(a) No participants under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570 of Title 29).

(b) Participants who are 14 and 15 years of age shall participate only in accordance with the limitations imposed by §§ 570.31 and 570.35 of subpart C of Part 570 of Title 29.

(c)(1) Each prime sponsor shall develop a written financial or non-financial agreement with each worksite employer or host of an outstationed worksite which assures

(i) adequate supervision of each participant;

(ii) adequate accountability for participant time and attendance, and

(iii) adherence to the rules and regulations governing SYEP.

(2) Such written agreements may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, or be compensated for work with CETA funds, for more than 40 hours per week. While the Department uses a 9-week, 26-hour a week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

§ 680.211 Eligibility for participation.

Each person shall be:

(a) At the time of application, economically disadvantaged; and

(b) At the time of enrollment, 14 through 21 years of age inclusive (sec. 402(a)).

§ 680.212 Participants compensation, benefits, and working conditions.

(a) Prime sponsors shall provide participants benefits, wages, and allowances as provided in §§ 676.26 and 676.27 except: Unemployment insurance shall be an allowable cost only if required by State law.

(b) Participants enrolled in vocational exploration activities shall be compensated as described in § 676.26 except: participants receiving public assistance, or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend in addition to their incentive allowance for participation in vocational exploration program activities; *Provided,* That the participant's total allowances (the incentive allowance plus any stipend) do not exceed the basic allowances paid to other participants. This stipend is available to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. The first $30 of such total allowance payment shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing the total allowance payment for each participant, the prime sponsor shall insure that no individual shall receive an amount in allowances which would result in a net loss to the youth or the youth's family in the amount of public assistance benefits.

§ 680.213 Reallocation procedures.

The reallocation provisions of § 676.47 apply to SYEP except that a reallocation may occur immediately after completion of the notice and comment procedure. Priority shall be given in reallocating such funds to other areas within the same State.

§ 680.214 Modifications.

(a) The procedures specified in § 676.16 shall apply to the modifying of the SYEP subpart; however, the provisions concerning A-95 clearance shall not apply.

(b) The RA shall notify the prime sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

§ 680.215 Reporting requirements.

Each prime sponsor shall submit the following reports to the RA:

(a) A Youth Program Status Summary, as of June 30 and September 30 (separate reporting of the vocational exploration program component shall be included in this report);

(b) A Youth Financial Status Report, as of June 30 and September 30 (separate reporting of the Vocational exploration program component shall be included in this report);

(c) Separate Quarterly Summary of Youth Characteristics reports as of September 30, based on the participant records for (1) this program and (2) any Part 677 summer youth program;

(d) Selected information required on the above reports shall be submitted for informational purposes for participants and expenditures in summer components funded with monies in the Part 677 annual plan subparts as applicable;

(e) Selected information required on the above reports shall also be submitted for reporting purposes, for participants and expenditures in entitlement projects funded with funds provided under this subpart, as well as in the required entitlement reports; and

(f) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 680.216 Termination date for the summer program.

Participants shall not be enrolled in program activities beyond September 30. However, in no event may a participant work full time after the beginning of his or her school year.

§ 680.217 Alternative remedies.

(a) The Secretary, for good cause, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of the Secretary's order or on such other date as the Secretary determines. In cases of termination, the Secretary may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer of participants into another prime sponsor's summer program in accordance with the Secretary's directions. Whenever the Secretary orders a termination or suspension of a contractor or subrecipient under this paragraph, the Secretary may take whatever action is necessary including direct legal action against the contractor or subrecipient or issue an order to the prime sponsor that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) All subgrants and contracts under the summer program shall contain the provisions of paragraph (a) of this section.

(c) Where a subgrant or contract is suspended or terminated in whole or in part, the Secretary shall offer the contractor or subrecipient an opportunity for a hearing.

Signed at Washington, D.C. this 1st day of March 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-6752 Filed 3-5-79; 8:45 am]